







TRIAL

OF

LUCRETIA CHAPMAN,

OTHERWISE CALLED

LUCRETIA ESPOS Y MINA,

WHO WAS JOINTLY INDICTED WITH

LINO AMALIA ESPOS Y MINA,

FOR THE

MURDER

OF

WILLIAM CHAPMAN, Esq.

LATE OF ANDALUSIA, COUNTY OF BUCKS, PENNSYLVANIA,

*In the Court of Oyer and Terminer, held at Doylestown, for Bucks,
December Term, 1831, continued to February Term, 1832.*

PREPARED FOR PUBLICATION,

BY WILLIAM E. DU BOIS,

STUDENT OF LAW.

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ADVERTISEMENT.

THE ensuing pages are given to the public, as a history of events, which, for the last few months, have occupied in a great degree the popular interest, and have very recently been made the subject of an investigation before a judicial tribunal. That investigation, as it regards one of the accused parties, has terminated; and the proofs and arguments elicited on that occasion form the materials for the present publication.

The Compiler will not presume to remark upon the case which his volume unfolds. It is sufficient to say, that to the profession, he offers a Report, abounding in arguments and decisions upon important points of law; to physicians and chemists, is presented a series of examinations, embracing facts and inferences, which cannot fail to prove interesting to them as scientific men; to the reading community at large, a narrative is offered, replete with details of a singular and romantic character. The claims of the work to public favour, are largely enhanced by the addition of the Charge of the President Judge, and speeches of Counsel before the Jury. The documentary evidence, in which are included many curious letters, is also inserted at large.

One of the most pleasing points of the Reporter's duty, is to acknowledge the assistance which has been kindly extended to him by gentlemen more or less interested in the cause, particularly the learned Judge and Counsel just alluded to.

Two or three errors will be observed, but none of sufficient consequence to require a formal correction here. The remarks of the defendant's counsel upon the question of evidence, at pages 27 and 29, could not be procured without inconvenience and delay; they have, therefore, been merely noted in brief. This will account for the disparity, in length, of the arguments.

The Report has necessarily been extended to a size exceeding that of any other similar publication, so far as the Compiler is aware, since the Trial of Colonel Burr. It is believed, however, that the public would have been as little satisfied as himself with a curtailed statement of a case which has been, far and near, the theme of exciting interest.

April 28th, 1832.

CONTENTS.

Indictment, Motion to postpone, Motion for severance, Motion to interrogate a juror, Mr. Ross' opening remarks, Testimony of Mary Palethorpe, Ellen Shaw, Esther Bache, Ann Bantom, Richard Watkinson, Elias Durand, Argument upon the admissibility of Mr. Durand's evidence, Testimony of Alfred Guillou, Forged letter to Mr. Chapman, Testimony of Constant Guillou, Edwin B. Fanning, Dr. J. Phillips, Dr. A. Knight, Benjamin Boutcher, Mrs. Palethorpe, Mrs. Hitchbourn, Mrs. Smith, Letters to parents of Mina, Bishop's certificate of marriage, Letter from Albany, Syracuse, Philadelphia, Andalusia, Baltimore, Washington, Do. Do. Do. Andalusia, Testimony of J. M'Ilvaine, Esq. Lino's will, Letter from Brewster, Mass. Draft on Bitonia, Forged certificates of the minister, Bills from Washington, 	page 3 7 8 13 17 19 20, 66 23 24 26 27 Argument upon the admissibility of Mr. Durand's evidence, Testimony of Alfred Guillou, Forged letter to Mr. Chapman, Testimony of Constant Guillou, 31, 67 32 33, 69 34, 70 35 ib. 37 Letters to parents of Mina, Bishop's certificate of marriage, Letter from Albany, Syracuse, Philadelphia, Andalusia, Baltimore, Washington, Do. Do. Do. Andalusia, Testimony of J. M'Ilvaine, Esq. Lino's will, Letter from Brewster, Mass. Draft on Bitonia, Forged certificates of the minister, Bills from Washington, 	page 55 ib. 57 60 64 66 69 ib. 70 76 77 80 83 84 88 89 91 92 93 ib. ib. 94 ib. 95 ib. 96 97 128 155 181 206 213	Jonathan Thomas called, Testimony of Dr. Hopkinson, Dr. Coates, Dr. Mitchell, T. G. Clemson, Israel Deacon, Esq. William Field, Esq. Mary Hamilton, Mr. M'Call's opening remarks, Testimony of Dr. Bache, Dr. Togno, Col. De Cuesta, Letters of the Consul and Mina, Letter from Erie, Letter of the Consul to Mrs. C. Testimony of Lucretia Chapman, Levi V. Vandegrift, Rev. George Scheetz, Joseph Magoffin, William M. Gouge, Henry Korn, Anthony M. Buckley, Francis C. Labbe, Joseph Dixon, William Duane, Esq. Jane Vallance, Catherine Vallance, William Shaw, Eliza Vandegrift, William Vansant, Ellenor Boutcher, John A. Hellings, Sarah Gando, John Thompson, Willis H. Blaney, Mr. Reed's Speech, Mr. M'Call's Speech, Mr. Brown's Speech, Mr. Ross' Speech, Charge of the President Judge, Verdict of the jury,
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TRIAL,

&c.

At a Court of Oyer and Terminer, and Quarter Sessions of the Peace, holden at Doylestown, in and for the County of Bucks, in the Commonwealth of Pennsylvania, December Sessions, A. D. 1831:

Before the Honourable JOHN FOX, President,
Honourable WILLIAM WATTS, } Associates.
Honourable WILLIAM LONG, }
Judges of the said Court.

WILLIAM PURDY, Esquire, Clerk.

The Court was opened on Monday, December 12th, 1831, at 11 o'clock, A. M., and after some preliminary business, the Grand Jurors were impanelled, and charged by the Court, upon the subject of their duties. The indisposition of the President Judge prevented him from enlarging, with much particularity, upon the nature and definition of the various offences which were expected to come under their notice; of which the highest in the list was Murder.

On Wednesday afternoon, the Grand Jury brought into Court the following bill of

INDICTMENT.

{ *In the Court of Oyer and Terminer, held for the County of Bucks, at December Term, in the year of our Lord, one thousand eight hundred and thirty-one.*

BUCKS COUNTY, /s.

The Grand Inquest of the Commonwealth of Pennsylvania inquiring for the body of the County of Bucks, upon their oaths and solemn affirmations, respectively do present, that Lucretia Chapman, late of the County aforesaid, widow, otherwise called Lucretia Espos y Mina, late of the County aforesaid, widow, and Lino Amalia Espos y Mina, late of the County aforesaid, yeoman, otherwise called Celestine Armentarius, late of the County aforesaid, yeoman, otherwise called Amalia Gregoria Zarrier, late of the County aforesaid, yeoman, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, and of their malice aforethought contriving and intending a certain William Chapman to deprive of his life, and him the said William Chapman, feloniously to kill and murder, on the twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-one, and on divers other days and times between the said twentieth day of June in the year last aforesaid, and the twenty-third day of June, in the same year, with force and arms at the County aforesaid, and within the jurisdiction of this Court, did knowingly, wilfully, feloniously, and of their malice aforethought, mix and mingle certain deadly poison, called arsenic, in certain chicken soup, which had been, at divers days and times, during the time aforesaid, prepared for the use of the said William Chapman, to be drunk by him the said William Chapman, (they the said

Lucretia Chapman, otherwise called Lucretia Espos y Mina, and the said Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, then and there well knowing that the said chicken soup with which they, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, and the said Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, did so mix and mingle the said deadly poison as aforesaid, was then and there prepared for the use of the said William Chapman, with intent to be then and there administered to him for his drinking the same,) and the said chicken soup with which the said deadly poison was so mixed as aforesaid, afterwards, to wit, on the said twentieth day of June in the year last aforesaid, and on the said other days and times last mentioned, at the County and within the jurisdiction aforesaid, was delivered to the said William Chapman, to be then and there drunk by him, the said William Chapman, and he the said William Chapman (not knowing the said poison to have been mixed with the said chicken soup) did, afterwards, to wit, on the said twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-one, and on the said other days and times above mentioned, there drink and swallow down into his body several quantities of the said deadly poison so inixed as aforesaid with the said chicken soup, and the said William Chapman of the poison aforesaid and by the operation thereof then and there became sick and greatly distempered in his body, of which said sickness and distemper of body, occasioned by the said drinking, taking, and swallowing down into the body of the said William Chapman of the deadly poison aforesaid, so mixed and mingled in the said chicken soup as aforesaid, he, the said William Chapman, from the said several days and times on which he had so taken, drunk, and swallowed down the same as aforesaid, until the said twenty-third day of June, in the year last aforesaid, at the County aforesaid, and within the jurisdiction aforesaid, did languish, and languishing did live, on which said twenty-third day of June, in the year last aforesaid, at the County, and within the jurisdiction aforesaid, he, the said William Chapman, of the poison aforesaid so taken, drunk and swallowed down as aforesaid, and of the said sickness and distemper occasioned thereby, did die. And so the Inquest aforesaid, upon their oaths and solemn affirmations aforesaid, do say, that the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, and the said Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, him, the said William Chapman, then and there in the manner and by the means aforesaid, feloniously, wilfully, and of their malice aforethought, did kill and murder, contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, inquiring as aforesaid, upon their oaths and solemn affirmations aforesaid, do further present that the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, not having the fear of God before her eyes, but being moved and seduced by the instigation of the devil, and of her malice aforethought, wickedly contriving and intending the said William Chapman to deprive of his life, and the said William Chapman feloniously to kill and murder, on the twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-one, and on divers other days and times between the said twentieth day of June in the year last aforesaid, and the twenty-third day of June in the same year, with force and arms at the county aforesaid, and within the jurisdiction of this Court, did feloniously, wilfully, and of her malice aforethought, mix and mingle certain deadly poison, called arsenic, in certain chicken soup, which had been at divers days and times, during the time aforesaid, prepared for the use of the said William Chapman, to be drunk by him, the said William Chapman, (she, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, then and there well knowing that the said chicken soup with which she, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, did so mix and mingle the said deadly poison as aforesaid, was then and there prepared for the use of the said William Chapman, with intent to be then and there administered to him for his drinking the same,) and the said chicken soup with which the said deadly poison was so mixed as aforesaid, afterwards, to wit, on the said twentieth day of June in the year of our Lord one thousand eight hundred and thirty-one, and on the said other days and times last mentioned at the county and within the jurisdiction aforesaid, was delivered to the said William Chapman, to be then and there drunk by him the said William Chapman, and he, the said William Chapman,

(not knowing the said poison to have been mixed with the said chicken soup) did afterwards, to wit, on the said twentieth day of June, in the year last aforesaid, and on the said divers other days and times above mentioned, there drink and swallow down into his body several quantities of the said deadly poison so mixed as aforesaid with the said chicken soup, and the said William Chapman, of the poison aforesaid, and by the operation thereof, then and there became sick and greatly distempered in his body, of which said sickness and distemper of body, occasioned by the said drinking, taking, and swallowing down into the body of the said William Chapman of the deadly poison aforesaid, so mixed and mingled in the said chicken soup as aforesaid: he, the said William Chapman, from the said several days and times, on which he had so taken, drunk, and swallowed down the said deadly poison as aforesaid, until the said twenty-third day of June, in the year last aforesaid, at the County aforesaid, and within the jurisdiction aforesaid, did languish, and languishing did live, on which said twenty-third day of June in the year last aforesaid, at the County aforesaid, and within the jurisdiction aforesaid, he, the said William Chapman, of the poison aforesaid so taken, drunk, and swallowed down as aforesaid, and of the said sickness and distemper occasioned thereby, did die. And that the said Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, then and there, feloniously, wilfully, and of his malice aforesought, was present, aiding and abetting the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, the felony and murder aforesaid, in manner and form last aforesaid, to do and commit. And so the Inquest aforesaid, upon their oaths and solemn affirmations aforesaid, do say that the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, and the said Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, him, the said William Chapman, then and there, in the manner and form last aforesaid, feloniously, wilfully, and of their malice aforesought, did kill and murder, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, inquiring as aforesaid, upon their oaths and solemn affirmations aforesaid, do further present that the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, not having the fear of God before her eyes, but being moved and seduced by the instigation of the devil, and of her malice aforesought, contriving and intending a certain William Chapman to deprive of his life, and the said William Chapman, feloniously, wilfully, and of her malice aforesought, to kill and murder with poison, on the twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-one, and on divers other days and times, between the said twentieth day of June, in the year last aforesaid, and the twenty-third day of June in the same year, with force and arms, at the County aforesaid, and within the jurisdiction of this Court, did knowingly, wilfully, feloniously, and of her malice aforesought, mix and mingle certain deadly poison, called arsenic, in certain chicken soup, which had been at divers days and times, during the time aforesaid, prepared for the use of the said William Chapman, to be drunk by him, the said William Chapman (she, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, then and there, well knowing that the said chicken soup with which she, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, did so mix and mingle the said deadly poison as aforesaid, was then and there prepared for the use of the said William Chapman, with intent to be then and there administered to the said William Chapman, for his drinking the same); and that the said William Chapman afterwards, to wit, on the twentieth day of June, in the year last aforesaid, and on the said other days and times last mentioned at the county aforesaid, and within the jurisdiction aforesaid, did take, drink, and swallow down into his body several quantities of the said chicken soup, with which the said arsenic was so mixed and mingled by the said Lucretia Chapman, otherwise called Lucretia Espos y Mina as aforesaid, (he, the said William Chapman, at the time he so took, drank, and swallowed down into his body the said chicken soup, not knowing there was any arsenic or any other poisonous or hurtful ingredient mixed or mingled with the said chicken soup,) by means whereof he, the said William Chapman, then and there became sick and greatly distempered in his body; and the said William Chapman, of the poison aforesaid so by him taken, drunk and swallowed as aforesaid, and of the sickness occasioned thereby, from the said several days and times on which he, the said William Chapman, had so taken, drunk, and swallowed down the same deadly poison as afore-

said, until the said twenty-third day of June, in the year last aforesaid, at the County and within the jurisdiction aforesaid, did languish, and languishing did live, on which said twenty-third day of June, in the year last aforesaid, at the County and within the jurisdiction aforesaid, he, the said William Chapman, of the poison aforesaid, so by him taken, drunk, and swallowed down, and of the sickness and distemper occasioned thereby, did die.

And that the aforesaid Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, before the said felony and murder committed, to wit, on the said twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-one, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, feloniously, wilfully, and of his malice aforethought, did incite, instigate, stir up, counsel, direct, advise, command, aid, abet, move, and procure her, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, the felony and murder aforesaid, in manner and form aforesaid, to do and commit. And so the Inquest aforesaid, upon their oaths and solemn affirmations aforesaid, do say, that the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, him, the said William Chapman, then and there, in manner and form last aforesaid, feloniously, wilfully, and of her malice aforethought, did kill and murder, and that he, the said Lino Amalia Espos y Mina, otherwise called Celestine Armentarius, otherwise called Amalia Gregoria Zarrier, feloniously, wilfully, and of his malice aforethought, in manner and form aforesaid, at the County aforesaid, and within the jurisdiction of this Court, her, the said Lucretia Chapman, otherwise called Lucretia Espos y Mina, did aid, abet, counsel, direct, advise, and instigate, the felony and murder aforesaid, in manner and form aforesaid, to commit and perpetrate, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

THOMAS Ross,
Deputy Attorney General.

A True Bill.

GILES KNIGHT, Foreman.



The following named gentlemen appeared as Counsel:

For the Commonwealth, Messrs. THOMAS Ross, Deputy Attorney General, and WILLIAM B. REED.

For the prisoner, Lucretia Chapman, Messrs. DAVID PAUL BROWN, and PETER M'CALL.

For the prisoner, Lino Amalia Espos y Mina, Messrs. SAMUEL RUSH, and E. T. M'DOWELL.

On Wednesday afternoon, the prisoners having been brought up, and put to the bar, *Mr. Rush*, on the part of Mina, rose and addressed some remarks to the Court, expressive of the embarrassment under which he laboured, in consequence of his client's imperfect knowledge of the English language. He proceeded to state that, although it was with considerable difficulty the indictment had been explained to the prisoner, he was prepared to waive all objections to the immediate arraignment on that ground, provided that, by pleading to the indictment at once, he did not debar himself from the right, on which it might be his duty to insist, to be tried by a jury of which one half should be composed of foreigners (*de medietate lingue*). It was his object therefore to obtain some assurance from the Court, or from the prosecution, that an immediate plea to the indictment should not foreclose that right.

Mr. Ross, for the Commonwealth, said that, so far from taking any advantage of the kind referred to, the counsel for the prosecution had concluded, if the application for a jury *de medietate* should be pressed, to accede to it. Without admitting it to be the law, they were disposed to yield, from a wish to extend to the prisoner any advantage which he might suppose such a privilege would afford.

The prisoners were then arraigned by the Deputy Attorney General, and severally pleaded *Not Guilty* to the indictment. Being asked, separately, how they would be tried? They answered, "By God and my country."

Ross. (To Mina.) Are you ready for your trial?

Prisoner. Yes.

In reply to the same question, offered to the other prisoner, *Mr. M'Call*, on her behalf, produced the following *affidavit*.

Commonwealth,

vs.

Lucretia Chapman, alias Lucretia Espos y Mina, and Lino Amalia Espos y Mina, alias Celestine Armentarius, alias Amalia Gregoria Zarrier.

Oyer and Terminer,
Dec. 1831.

Lucretia Chapman, the defendant, being duly sworn according to law, deposes and says, that Benjamin Ash, who, she is informed, and verily believes, is at this time a resident of Flushing, in the state of New York; James Paul Foreman, who resides in the northern part of the state of New Jersey; J. Bishop, whose precise residence this deponent is not acquainted with, but believes to be in Vermont; — Cruiser, who resides in the state of New Jersey; J. H. Campbell, Esq., who is at present a member of the Legislature, and at Harrisburg; are all and every of them material witnesses for her in the trial of the above cause; and without whose testimony she cannot proceed to trial: this deponent further says, that every possible exertion has been used by her to obtain the attendance of those witnesses who were within the immediate reach of a subpoena; that she arrived at Doylestown on the 11th instant, after an exhausting ride of five hundred miles: that her counsel, whom she had never conferred with, or had an opportunity of engaging, until the 10th instant, arrived here on the night of the twelfth—that notwithstanding immediate measures were taken, there were great difficulties in procuring an individual to collect testimony and subpoena witnesses; this, however, was at length accomplished, and subpoenas were issued to Philadelphia, and Andalusia, and put into the hands of an officer on the 13th instant: but whether the officer may succeed in the service of all of them or not, must remain doubtful until their return, which cannot be expected before Saturday, the 18th instant. This defendant further states, that in respect to all the witnesses above referred to, as well out of, as in the state, she confidently expects to procure their attendance at the next Session of this Court.

LUCRETIA CHAPMAN.

Sworn and subscribed to, this 14th
day of December, A. D. 1831,
before me, *Wm. Purdy*, Clerk.

The affidavit having been read, *Mr. M'Call* said, it would not be necessary for him to trouble the Court with many remarks upon the present application for postponement. To urge an immediate trial under such circumstances as were detailed in the affidavit, would be in the highest degree unjust. The absence of a material witness was invariably held to be conclusive ground for the continuance of a cause, due exertion having been used to procure an attendance. If it were necessary to quote authority to this point, he would refer the Court to the case of the *Chevalier D'Eon*.

The COURT said, it was not necessary.

The gentleman proceeded to notice the extraordinary excitement to which this case had given rise throughout the community; the eager attention of the dense crowd then present; the prejudice which was supposed to exist against his client;—he asserted with great emphasis her innocence of the charge, and stated her only wish to be, to have an opportunity of removing the cloud of suspicions and surmises that had been raised against her.

Mr. Reed, for the Commonwealth, said, the officers of the prosecution were placed, by this application, in a position of painful embarrassment. They were ready to go to trial, but had no wish to press harshly or unkindly upon the prisoners. A great number of witnesses were in attendance on the part of the Commonwealth—many of whom were brought from a distance, at a great sacrifice of convenience on their part, and at a considerable expense to the County. Many of them were females, unaccustomed to travel in an inclement season, and several were professional gentlemen, whose time was valuable. Under these circumstances, with the risk of losing material witnesses, during so long an interval, the counsel for the Commonwealth could not consent to a postponement until the next Court, though they were disposed to accede to any arrangement that could be made for a Special Court to be held at some early day.

This proposition was accepted by the counsel for the defendants, and the Court named the 9th or the 30th of January, either of which might be agreed upon by the parties.

After an interchange of views by counsel, and it appearing that no arrangement could be settled upon, the case was continued to the next session, commencing on Monday, the thirteenth day of February next.

On Thursday, the Grand Jury being about to be discharged, the Court admonished them that they were forever bound by their oaths, not to reveal what had passed before them as Grand Jurors; and that as it regarded the present case, they should be particularly cautious not to convey any impressions to the minds of the people from evidence which had officially come to their knowledge; leaving their open act, in returning the Bill of Indictment, as the only one from which the public might draw any inference.

Monday, February, 13, 1832.

The February Sessions commenced this day; all the Judges present. Various matters occupied the attention of the Court until near five o'clock in the afternoon, when there being nothing further to delay the progress of the cause, and none of the counsel appearing in court, except Mr. Ross, for the Commonwealth, and Mr. McDowell, for the defendant, Mina,

Mr. McDowell rose and stated to the Court, that he had seen Mr. Brown, who, with the other gentlemen, had just arrived. Mr. Brown had requested him to say to the Court, that they had been delayed by the breaking down of their carriage, on the road to this place, and had been obliged to come a part of the way on foot; and that as soon as it was practicable for them to appear in court, they would do so. The gentleman having expressed his earnest desire that the cause might not be taken up until to-morrow morning, and Mr. Ross offering no objection, the Court adjourned until nine o'clock.

Tuesday, February 14th.

The Court convened pursuant to adjournment, and at half-past nine o'clock, the prisoners were placed at the bar.

Mr. McDowell. I address the Court, as one of the counsel for Mina. The application which I am about to make, is, however, a mutual one; and can be more properly made now, than at any other time. It is, that the prisoners be tried separately. Our reasons for this application are not idle. We believe, on the part of both, that they cannot with safety or justice, be tried together. It will be necessary, in their defence, for them to attack each other; and the evidence will, to a certain extent, be separate.

There will be a difference in the rights of the respective prisoners in regard to the challenges. We contend that we have the right, on the part of Mina, to all of our challenges out of the panel. The application for separate trials is a matter for the discretion of the Court; but the challenges are matter of right. A juror, who would be acceptable to one defendant, might be challenged by the other; and in this way, injustice would be done, if both were to be tried together.

To show the right to a severance, the gentleman cited 1st Chitty's Crim. Law, 436. 4th Comyn's Dig. 660. 4th Amer. Dig. 174. 4th Comyn's Dig. 701. 1st Peters' Rep. 118. 7th Smith's Laws, 731, Appendix. Trial of Mail Robbers at Philadelphia, C. C. U. S. (The gentleman read the application of Mr. Biddle on the part of Porter, in that case.

So far as it regards the convenience and the wishes of counsel for the defendants (said Mr. M'D. in conclusion,) there is no motive for delay; but after very mature deliberation, and from the nature of the evidence to be brought forward against the prisoners, we do think it necessary to make this application. We are aware of the inconvenience that it will give the Court.

Judge Fox. We shall not take the convenience of the Court into consideration.

Mr. McDowell said, he supposed so, and concluded his observations to the point under argument.

Mr. Ross. The individuals who represent the Commonwealth in the cause now before the Court, are willing to extend to the prisoners every benefit to which they

are properly entitled. But the present application we are compelled to deny and resist.

Whatever may be the law in England on this subject, we contend that no such right has been recognised by the courts of this country; and we further contend, that according to the decisions not only of our own State, but of the Courts of the United States, it is not even discretionary with your honours to say whether the defendants shall be tried separately or not. The mode and manner of trial is to be determined by the Counsel for the Commonwealth; and if, in their opinion, the ends of public justice will be defeated by a severance, they have the right of insisting upon a joint trial. In England, Mr. Ross contended, that a separate trial could not be claimed; and referred to *3d T. R. 101*, for the opinion of Justice Buller; but the Court would not permit this authority to be read. He also cited *2 Hale, P. C. 173*, where it is laid down that two capital offences may be joined in the same indictment, and tried by the same jury. He contended that under such circumstances the defences must necessarily be different, and that the right of peremptory challenges must be equally affected, as if two joint defendants were put upon trial together; for, the prisoner might wish to have one juror on the trial of one of the capital cases, whom he would wish to challenge on the other. The same principle, he further said, was recognised by the Supreme Court of this State in *5th Serg. & R. 59*, where it was held that two offences for conspiracy might be joined in the same indictment, and tried by the same jury. In the case referred to, the defence was different, and the same objection respecting the right of peremptory challenge existed, as has been raised in the case now under consideration; still the offences were permitted to be joined and tried by the same jury. The question has however been settled by the case of *U. S. vs. Marchand et al.*, *12 Wheaton's Rep.* in which Justice Story delivers the opinion of the Court. In reviewing the law and the cases on this subject, he says, that this right of challenge is not a right to *select*, but merely the right to *reject* jurors; and the Supreme Court refused to allow the separate trial. The case of Wilson, the mail robber, was the last case in which this point was raised, and goes farther than any case heretofore decided. Judge Baldwin expressly said, that he would not allow the defendants to sever in their trial, even if they should be compelled to attack each other, in case the District Attorney would say, that the ends of public justice would be defeated by such severance. The D. A. did not resist the motion made by the defendants' counsel, and a separate trial took place. Mr. R. contended that this case was decisive of the question; and that it invested the Prosecuting Attorney with the sole power of determining the form and manner of trial. He also argued that it overruled the case of *U. S. vs. Sharp*, *1 Peters 118*, even admitting that the case in Peters was an authority in point; although he denied that it was any authority to show that the defendants could *claim* separate trials. It does not appear from the report of the case, that any objection was made to the motion for a separate trial, or that any argument took place; and the Court, as a matter of course, permitted the severance. So also in the case of *Com. vs. Eliza Anderson et al.* The Attorney General acceded to the motion for a separate trial without argument; and therefore that case was no authority. He referred to the other cases cited by the counsel for the prisoners, and contended that they did not sustain the gentlemen in the position which they had taken; and concluded by saying, that in this case they were willing to allow to each of the defendants their right of challenge, but that if a joint trial were not permitted, the ends of public justice would be defeated.

COURT. Be good enough, Mr. Ross, to put your objection to this application in writing.

The following was drawn up, and filed: "The counsel for the Commonwealth say, that in their opinion, if separate trials be conceded by the Court to the defendants in this case, the ends of public justice will be defeated." (Signed by counsel.)

At the suggestion of the Court, the following affidavit and opinion of counsel on the opposite side, were drawn and filed:

"Commonwealth
vs.
Lucretia Chapman, &c. {

"The defendants above named being respectively sworn do say, that to the best of their knowledge and belief, the defence of one of the said defendants will conflict and essentially interfere with the defence and rights of the other; and that they cannot, with that safety which they consider themselves justly entitled to enjoy, proceed

jointly to the trial of the said cause." (Signed by the defts. and sworn to before the Clerk.)

"The counsel for the defendants apply to the Court for a separate trial on the ground that, in the opinion of the counsel, on mature deliberation, the defence of one of the defendants will interfere, or prove incompatible with that of the other; and on the further ground of the preceding affidavit." (Signed by counsel.)

Mr. Reed. In addition to the views taken by my colleague, I will submit to the consideration of the Court one or two suggestions, which I think ought to affect the decision of this question. All the authorities cited on the part of the prisoners, except two, relate to the legality of a severance in a joint indictment when all parties acquiesce in it. The words used throughout, are—"separate trials *may* be granted." This is incontestable. But this does not at all affect the question whether in certain cases there is, or is not, a necessity for severance. The only authorities cited to sustain the right of the prisoners, are *1st Chitty*, and the case of *U. S. vs. Sharp*, in *1st Peters' Rep.*; one an English elementary authority, the other an American adjudication. Neither of them sustain the position. The sole reason given by *Chitty*, is the delay which would result, if the panel should be exhausted by several challenges; not the real or imaginary benefit anticipated by the prisoners in this case; and still less, the danger of a conflicting defence. I will refer to the only authority at hand, of those to whom *Chitty* refers, as sustaining his position, *Foster's Crown Law*, 106, where it is stated that in the case of *Swan and Jeffries*, indicted for petit treason and murder, the Judges agreed among themselves, apparently without argument, that as the prisoners were entitled to a different number of challenges, they were entitled to separate trials. No English authority sustains the position on the ground of conflicting defence; the only one which does recognise the right, does so on the ground of the challenges, which is met conclusively by the case of the *U. S. vs. Marchand*, in *12 Wheaton*, where the decision is explicit, that the right of challenge being merely a right to reject, cannot be affected in a joint trial. The American authority is, if possible, entitled to still less consideration. It stands not only alone, but without any inherent strength to sustain it. In the report itself, it is mentioned as an incidental matter, rather of acquiescence than of contest, and does not appear to have received the deliberate attention of the Court. The syllabus, where the doctrine is more strongly stated than in the text, has accidentally crept into several elementary works, probably in most instances without examination on the part of the compilers. In the case of the *U. S. vs. Marchand*, the whole subject came before the Court, and there the right of the prisoners to a severance was expressly denied, but the power of granting separate trials was said to be in the discretion of the Court. In the case of the mail robbers, the same question was presented, the same application was made as in this case, and for the same reasons. There the counsel expressly disclaimed making it a matter of right, but making it as a suggestion to the discretion of the Court, urged it on the ground of the conflicting defence, and the necessity there would exist for one prisoner to attack the other. The Court said, that if the Dist. Attorney should say, that the ends of public justice would be defeated by a severance, they would refuse it: otherwise, they were disposed to grant it. The Dist. Attorney making no answer to the suggestion, it was granted.

I will proceed now to inquire, whether there is any thing in this case, or in the merits of this application to render it peculiar. One of the reasons assigned by the prisoner's counsel is, the difficulty of challenging. That is met by the case of *U. S. vs. Sharp*, *12 Wheaton*. The other is, the necessity which one prisoner may be under of criminizing the other. This is met by the decision in the Circuit Court, in the case of the Mail Robbers. In that case, the Court thought its discretion ought to be controlled by the views of the counsel for the United States. The counsel for the prosecution in this case ask the same privilege. They have filed a paper in which they have explicitly stated their belief that if this severance be allowed, the ends of public justice will be defeated. Stronger language could not be used. They have done in this case, what, in the case of the mail robbers, the Court said would have compelled them to try the prisoners jointly. Cognisant as they are, of the merits of their case, they had elected their mode of trial, and have expressed their conviction, that any other mode will defeat the ends of justice. The criminal act laid in this indictment is the result of concert and combination between the prisoners. The offence here was actually, though not technically, a conspiracy: and in this case, if it should be shown that there was concert and combination to effect the murder of Mr.

Chapman, the acts and declarations of one, may be given in evidence against the other. But even if there should be disclosures which may be evidence against one, but not against the other, the Court has the power, which is constantly exercised, of saying to the Jury, this is evidence against the one, and not evidence against the other.

That power is well ascertained and recognised. In short, this application is resisted on the part of the Commonwealth, on the ground, that the mode of conducting the prosecution, whether by joint or several trial, is within the control of the prosecuting officers;—a right belonging to the Commonwealth which interferes with no constitutional right of the prisoners. The following authorities show the opinion of judges as to the superior eligibility of a joint trial. *Foster*, 365—7 *Serg. & Rawle*.

Mr. Rush. The Court have intimated that their convenience or inconvenience is not to be regarded in the cause now before them; neither should that of the counsel be taken into account. With these views the counsel have seen fit, at the very threshold of this cause, to interpose matters of very serious importance—of the last right to the defendants. They ask for a separate trial, for a reason now of record. What does this application mean? It is alleged, that these defendants will conflict in their defence. Does not that mean *a great deal*? May it please your Honours, it is a matter of the last importance. It is, that one shall accuse the other; that the other shall turn round upon his accuser; and thus, in effect, each defendant shall be *twice prosecuted*! It will be the duty of the counsel for the defendants to attack each other with all their zeal—all their ingenuity—all their fervour; and so, I repeat it, each of the accused will be *twice prosecuted*. If this application be refused; if the defendants are sincere—if their counsel are sincere—will they not be in a most straitened situation? Will they have that which the law contemplates—*a fair trial*? May it please the Court—it is their purpose to make war upon each other! Such is the plain English of this application. Try them together, then, and will it not be a monstrous spectacle? a monstrous hardship? In addition to the preparation and industry already manifested from the Commonwealth's counsel, they will then have to encounter each other. “The house divided against itself must fall.”

It is not necessary for me to go over the authorities already cited. The counsel have not shown the right to assume that discretion for which they contend. This is the burden of their objection to the application. I protest against this doctrine. The discretionary power is in the Court. In the case of the mail robbers the judges *consented* to the application; and the third ground taken by counsel was considered strong and important. The gentlemen lay a stress upon the argument that different offences and different offenders may be joined in the same indictment. Admit this, (and no one presumes to deny it) does it follow that they must be tried jointly?

The situation in which these defendants stand toward each other, is one of an extraordinary character. They strive, in effect, to cut each other's throats! But, say the gentlemen for the prosecution, “we can't help that—nay, it is the very thing for us!” Shall human lives thus be lightly sported with? Lives that can never be given again, if taken in this cause? And this is to come within the discretion of the Attorney General! Sir, the powers of the Attorney General are well laid down and defined; they cannot be transcended. Let him show his right, based upon the incontrovertible law of the land;—until that is done, we protest against it; we desire, first and last, that it may not be granted.

Suppose your honours should direct that the defendants be tried together. A juror might be called, whom one defendant would challenge, and the other would desire to retain. But, gentlemen tell us, our rights are confined to *rejection*—they do not extend to *selection*. Do not these terms amount to the same thing? Do we not, by rejecting twenty men, virtually select from the remainder of the panel? Is not the distinction, therefore, ideal?

The gentleman proceeded to comment upon the cases cited from *Peters' Rep.*—*Chitty's Crim. Law*—and the case of *Eliza Anderson et al.*, before alluded to; and concluded by pressing upon the attention of the Court, the exceeding importance of the application, and the high responsibility thrown upon them in being called upon to decide between conflicting opinions of counsel and authorities in law.

At a few minutes before twelve o'clock, the Court intimated a desire to have a conference previously to deciding, and adjourned until 2 o'clock, P. M.

Afternoon.

The court convened at 2 o'clock, pursuant to adjournment. The Court room was so completely blocked up by the dense mass of spectators, as entirely to preclude any

idea of proceeding in the cause, until some measures could be effected to abate the crowd and restore order. More than half an hour was consumed, with continued directions from the judges, and the most active exertions of the sheriffs and constables, before the Court were enabled to proceed in the trial.

The opinion of the Court was given by

Fox, President. The Court feel, as they ought, the high responsibility of a decision upon this point; but, in coming to a conclusion, they are governed solely by what they believe to be due to the Commonwealth and to the prisoners. It is of the greatest importance, that here, where our laws are so gentle in general, when circumstances call for capital punishment, that the ends of public justice should not be defeated by allowing to prisoners claims to which they are not by law entitled. On the other hand, the mild spirit of our criminal code demands from us, that we should accord to the prisoners, not merely what they are entitled to require in strict right, but whatever, in sound discretion, exercised with all due regard and tenderness to prisoners, we shall think them entitled to.

The first question is, have the prisoners a legal right to separate trials?

We are clear that they have not. We think the case of the *U. S. vs. Marchand*, conclusive upon this point; and it is, besides, in accordance with our opinion upon principle.—The case of *Anderson* and others, said to have been decided by *C. J. Gibson*, is so loosely detailed to us, that we can gather nothing of what the opinion of Judge Gibson was upon that subject, if indeed he then gave any, which, from what has been said, may admit of much doubt.

The next question is, whether, under the circumstances, we ought, exercising a sound discretion, to grant the prisoners a separate trial?

The prisoners swear that the defence of one will conflict and essentially interfere with the defence and rights of the other; and that they cannot, with the safety to which they believe they are entitled, proceed jointly to the trial. Besides this, all the counsel for the defendants give their opinion in writing, that on mature deliberation, the defence of one defendant will interfere, and prove incompatible with that of the other. If the case had rested here, all must agree that it would have been harsh to have ordered a joint trial. As a matter of course, we should have ordered a separate one.

But the official prosecutor, and the gentleman called to his assistance in the prosecution, both certify to the court, that in their opinions, if separate trials be granted, the ends of public justice will be defeated. To this opinion we are bound to pay great respect, though we do not think it should prevent us from exercising our own discretion. We must take care that the public justice of the country be not trifled with; nor, on light grounds, risk putting into the power of offenders the means of escape from the consequences of their crimes. But how are we to act, where prisoners in a capital case swear, and their counsel believe, and the Court think the opinion may be well founded, that compelling them to a joint trial will interfere with their several defences, and that the defence of one is incompatible with the defence of the other.

Such a case, opposed as it is by the protestation of the counsel for the prosecution, and bound, as we are, to exercise a sound legal discretion, tempered by tenderness in favour of life, leaves the mind in some difficulty. But called hastily to decide the question, and considering the vast importance to the public interest, that, if conviction should take place, all should be satisfied that the prisoners have had a full, fair, and impartial trial, I throw the doubt on the side of the prisoners, and direct that they be allowed to have several trials.

We do not see, either, that it will follow, by any means, that public justice will not be done. We shall aid both parties equally in bringing the cases before the juries; and have little doubt but we shall be able to cause substantial justice to be done, as well to the Commonwealth as to the prisoners.

The counsel for the Commonwealth said, they would take up the case of *Lucretia Chapman* first; and the clerk proceeded to call the jurors to the box.

Clerk. *Lucretia Chapman*, alias *Lucretia Espos y Mina*, stand up. These good men who are now to be called, are the same which shall pass between the Commonwealth and you. If you have any objections to make to them, you will make them as they are called up to be sworn, and before they are sworn; and you shall be heard. You have a right to twenty peremptory challenges, and as many more as you can show cause for.

John B. Balderson called. Not challenged.

Mr. Ross. We propose to ask this juror the following questions. Whether he has any conscientious scruples on the subject of capital punishment? And if so, whether those scruples would prevent him, under any circumstances, from finding a verdict of guilty of murder in the first degree?

Court. This is departing from the settled practice in this Court, and we must therefore have some reason for it. When a juror objects, spontaneously, from conscientious motives, to serving on a jury, he is excused by our practice.

Mr. Reed. So it was settled by the Supreme Court in the case of *Lesher*. But since that, there have been two adjudications. (Counsel cited *Mail Robbers' Trial*, and the case of *Eliza Anderson et al.*, where Mr. Ash, Deputy Attorney General, proposed to ask the question now offered; it was asked, and the juror set aside. Letter from *Mr. Ash* to *Mr. Ross* read to the Court to prove this fact.) Mr. Reed said that, believing it to be a matter distinctly and expressly adjudicated by the highest tribunals, he considered it altogether as a right, due to the prosecution.

Mr. M'Call said, he conceived, with great submission, that the Court would require some stronger authorities than any Mr. Reed had cited, before they would give their sanction to a doctrine so repugnant to the principles of humanity. He would take the liberty to look, for a moment, at those authorities. (Reads from *Mail Robbers' Trial*, p. 28.) The Court will observe, said Mr. M'Call, that here, the juror did *himself* state to the Court his conscientious scruples. This comes within the view of the case of *Lesher*, which has already been alluded to. Then, as to the case of *Eliza Anderson* and others, for the authority in which case, we have before us the letter of Mr. Ash, the Deputy Attorney General for the city of Philadelphia. What does it amount to? (The letter was read.) The language here is, that the Court *permitted* the question to be asked. But, we are not told what the circumstances of the case were, *before* that question was asked. Did the juror himself state his conscientious scruples? Was any exception taken, any objection raised, on the part of the defendants? On these important points we are left entirely in the dark. In fact, it is a very loose statement, and not to be considered an authority, binding upon this Court. (Case of *Lesher* read, and commented upon.)

Now, sir, have the Commonwealth given the Court power to apply a test, such as is now proposed to be applied, to obtain the abstract opinions and speculative doctrines of jurors? Does not the Constitution, which places religious opinions on the immutable basis of perfect freedom, protect the citizens from such inquisitorial attacks? What would be the effect of this proceeding?—There exists, in this state, a very respectable portion of citizens, who do entertain conscientious scruples upon this, and upon other subjects. Suppose an individual of that denomination should be indicted and arraigned upon a criminal charge; and upon the selection of his jury, such a system of exclusion should be adopted; would it not utterly divest him of the privilege of being tried by these, or any of these, his peers?

Mr. M'C. concluded, by hoping that, as the Court were unfettered by authority, the benignity of the law, in a case like this, where in favour of life, any leaning was on the side of the prisoner, would interpose and prevent the question being asked.

Mr. Brown. I will take the liberty, may it please your Honours, of adding one or two suggestions, to those which have fallen from the learned gentleman who has just preceded me—not that I anticipate giving much additional force to the views and arguments presented by him, but because I am anxious to fulfil, as far as I can, the duty which I owe to the defendant in this cause.

The best mode of conducting this investigation is, first accurately to ascertain the character of the question proposed, without which our attention will be at last but specious and unprofitable.

What then do the gentlemen propose?—To examine this juror as to what are his conscientious scruples on the subject of capital punishments, and whether those scruples will prevent him, under any circumstances, from finding a verdict of murder in the first degree?—Have they the right to do so?—that is the question: I apprehend they have not; and that the authorities will not be found to sustain them in the position they have assumed. What is the distinction between the cases cited, and *that* now under consideration? In those cases the challenge was the *privilege* of the juror, and not his *penalty*: he communicated his objections and his reasons to the Court, and they were deemed sufficient; but in this case the juror has suggested no difficulty in regard to serving; but *prima facie*, well qualified as he is, the prosecuting counsel, attempt inquiring into his *general* views in relation to capital punish-

ment, in order to extract from him the ground of a challenge in this *particular* case. Sir, such an attempt as this, is nothing less in its effects, than to convert conscience into a living curse.—The doctrine contended for would not only operate to the partial disfranchisement of a most respectable, highly useful, and in this county, very numerous body of citizens; but in its best aspect, it would prove a violation of one of the most sacred and inviolable principles of the constitution. In England we can understand this proscription. We can understand why a member of the Society of Friends, because his conscience forbids him to take an oath, shall be denied the privilege of testifying, (even in cases of the severest personal injury,) and is thereby virtually forbidden to expect legal redress against the trespasser upon his rights.—It is enough for me to say, that this bigotry and intolerance are not engrafted upon our laws.

Mr. Brown went on to say, that by the present application, the Court were asked to subject every juror to a sort of moral torture, the biases of his conscience were to be unfolded and explained, to the Commonwealth's counsel; in order to create and support a challenge for cause; thus imparting to the prosecution the power to *pack*, or select their own jury.—None, forsooth, will serve their cause but those who are conscientiously predisposed to sacrifice their fellow-men. This, it is obvious, must be most illegal and iniquitous in regard to the rights of the jury; but how much more pernicious is it to be considered in relation to the individual who looks to the jury as his *Fates*.—The verdict of conviction, instead of being reserved for the sequel of the trial, will too often be found impressed upon its very title page.

Suppose the defendant's counsel should ask a similar privilege—and the Commonwealth certainly occupies, or should occupy, no more favourable ground than the prisoner, would it not promptly be refused? Suppose we were to take exception to *men of war*, or such as were familiar with scenes of blood, on the score of their entertaining too light an estimate of human life? Would this Court listen to such an objection?—Never. The state of the mind of the juror as to his prejudices in the case to be tried, I grant you, may be inquired into; but not the state of his morals, his conscience, or his faith.

With regard to the case, said Mr. B., which Mr. Ash has certified by letter to my learned friend on the other side, I have a remark or two to make. I happened to be present at that investigation, and my recollections differ somewhat from the statement of that gentleman. I do say that there was no objection whatever taken to Mr. Ash's questions; the matter passed without argument—I had almost said, without notice.

Is it not singular, that the authority in this case should be laid before us in the shape of a letter from one Attorney General to another? Why do not the learned Judges certify? Why does not the officer, whose duty it is to record the proceedings of the court, certify? A certificate from the opposite counsel, even, would have been of greater avail, to prove this point, than the letter of the prosecuting officer. The life of an individual is of too great account to be *certified away*, by prosecuting officers of the Commonwealth. Conviction is their trade; and without saying how it is, I take leave to say, that the influence of habit often in the best of men, *may* prove too powerful for moral resistance. That case, therefore, is to be totally rejected.

Mr. Ross in reply said,

The question which is now presented to the Court for their determination, is one of great importance, as well to the Commonwealth as to the prisoner at the bar. It is the plain and simple question, whether persons shall be permitted to sit as jurors, who would under no circumstances find the prisoner guilty of the offence, with which she stands indicted. If persons, who may entertain such opinions, be permitted to try the defendant, as well might the doors of the prison be thrown open, and the country be saved the expense, and ourselves the trouble of going into a trial; for an acquittal must under such circumstances be the inevitable result. The prosecuting officers came here with the expectation that the counsel for the defendant would raise every objection, and contest every inch of ground, with all the zeal and ability which their cause might require;—it was indeed their imperious duty to do so. But we certainly did not expect that the Court would have shown any disposition to sustain them in the doctrine now advanced. Your honour has already intimated, that the course now proposed by the Commonwealth to interrogate each juror as to his conscientious scruples, is in direct opposition to the practice of this judicial district. Sir, it mat-

ters not, what may have been the practice of this district, if such practice be not authorized by the laws of the land. If it be repugnant to the decisions of our highest judicial tribunals, it can be of no authority, and certainly will not be recognised. I refer the Court to the case of the *Commonwealth vs. Brown*, tried in this County before Judge Ross, in which, I am informed, such a challenge was permitted to be made. But whatever doubts may have heretofore existed on this point, the case of the *Commonwealth vs. Lesher*, 17 Serg. & Rawle, 156, has entirely removed them, and clearly authorizes the question to be asked. It is true, that in that case, the juror himself first mentioned his scruples; but Judge Tod, in delivering the opinion of the Court, (page 157), expressly says, "*it does not seem to be material that the intimation of his unfitness to do justice in the case came first from himself.*"—Mr. Ross commented upon other parts of this opinion, and insisted that language could not be more clear and plain, than the words used by the learned Judge, and that there could be no doubt of the decision authorizing, in its full extent, the course now proposed to be pursued by his colleague and himself. So far as we have any knowledge of the decisions in other districts, continued Mr. Ross, this is the only construction, which has ever been put upon the case of *Lesher*.—In the cases of the *Commonwealth vs. Hatsfield*, *Commonwealth vs. Clue*, *Commonwealth vs. Anderson*, and others, and in the case of *Wilson*, the mail robber, tried before Judges Baldwin and Hopkinson, the questions were permitted to be asked, previous to any intimation from the juror.—These cases were all decided upon the authority of the *Commonwealth vs. Lesher*, and are conclusive authority for the right which we now claim. The case of *Anderson et al.*, was tried at an Oyer and Terminer held by Judges Gibson and Kennedy of the Supreme Court, during the last year; and Judge Gibson, although he dissented from the opinion of the Court in the case of *Lesher*, and was unwilling to permit the challenge to be made even where the juror first disclosed his scruples; nevertheless, in this case, permitted the Attorney General to propound the questions which we now propose. So well settled did they deem the law, that no objection was made, either by the Court, or the opposing counsel. No one knew better than Judge Gibson the true meaning of the decision in *Lesher's* case, and no one would have been more anxious to prevent any extension of the doctrine, or to guard against an erroneous construction being given to it;—for he disapproved entirely of the decision at the time it was made by the Supreme Court. Is this Court, in the face of all these decisions, prepared to say, that we shall not exercise the right of inquiring into the conscientious scruples of jurors?—Will your Honours disregard these authorities, and assent to the doctrine contended for by the counsel for the prisoner? The result of such a decision will, I fear, be pregnant with much mischief. It is true that it is a question which has been lately decided; but, if it be remembered, that in England the crown possessed the right of peremptory challenges, until 33 Edward I., and since then has enjoyed a qualified right, in case the panel was not exhausted—and that in this state, peremptory challenges were never expressly taken away from the Commonwealth, until the act of 1813, the reason for the point not having been sooner agitated, is evident.

This question has been argued by the gentlemen upon constitutional grounds; and it is said that if permitted, it would be establishing a "*moral torture*," repugnant to the principles of our government. Whether it be constitutional or unconstitutional, can make no difference, so long as the case of *Lesher* is not overruled. It belongs to a higher tribunal to declare that decision unconstitutional. This Court is bound to recognise it as authority, and to be governed by it in their determination.—But I deny that it is unconstitutional.—Can there be a more monstrous doctrine advanced than is contended for by the prisoner's counsel? What, Sir, will it be said, that to compel an individual to act as juror in a case, where he must either violate his conscience, or wilfully perjure himself, is in accordance with the freedom of our institutions, or the rights of conscience guaranteed to each one of us by the charter of our liberties?—Certainly not.—Such a course would indeed be establishing a "*moral torture*" and making conscience a "*living curse*." Suppose that a juror was called, who believes that all killing, whether with or without malice, should be punished with death, and that he would under no circumstances, find a different verdict. Would not the defendant have the right of inquiring into such opinions, and of challenging him when they were ascertained? Most assuredly he would. Why then, Sir, shall not the Commonwealth have the same right? The law makes no difference in this respect between the Commonwealth and the prisoner. The object in every trial is

to obtain a fair and impartial jury; men who will be *omni exceptions majores*, and who will "have such freedom of mind, that they will stand indifferent as they stand unsworn." This cannot be the case, if individuals are impanelled, who have previously determined, that under no circumstances, will they find such a verdict as the interest of the prosecution may demand. We ask, therefore, upon the authority of adjudicated cases, as well as upon the unerring principles of common sense and common justice, that we be permitted to ask the juror respecting his conscientious scruples.

COURT. The Commonwealth's counsel propose to ask the juror the following question, viz. Whether he has any conscientious scruples on the subject of capital punishment, and if so, whether those scruples would prevent him from finding a verdict of guilty of murder in the first degree, under any circumstances? *Prima facie*, every person summoned and returned upon the panel is a competent juror; but his incompetency, for various reasons, may be shown. If a juror is interested, or a near relation of a party, or infirm from age or sickness, he may be challenged, or set aside by the Court for the latter cause without challenge. A challenge for the cause now proposed to be shown by the examination of the juror, was, I believe, first sustained in this Court in *Brown's* case, in the Presidency of Juge Ross. In that case, upon the juror stating his scruples, the challenge was allowed; but when it was proposed in the same case to ask other jurors the question as to their conscientious scruples, the Court would not permit it to be done. This has since been the rule practised upon here, particularly in *Rousseau's* case. There the Court refused to suffer such a question as is now proposed to be put to a juror.

It is said that *Lesher's* case has extended the rule. It goes a step farther, perhaps, as to the means of showing the incompetency. The Supreme Court there say, "It is not material that the intimation of his (the juror's) unfitness to do justice in the case came first from himself." I agree fully in this—if it be shown to the Court by any evidence that the juror is not fit to do justice in the cause, it would be a good cause of challenge; but that is not the point now in controversy. It is, whether a juror may be compelled, by answers to interrogatories to show that he has scruples of conscience which disqualify him from serving. In the first place, I consider this point as settled in this Court by *Brown's* case, unless the Supreme Court have determined it differently. This has not been shown; although a case is mentioned by the counsel for the Commonwealth, as having been decided at a recent sitting of the Oyer and Terminer in Philadelphia. But it is not from the loose manner in which we have it stated to us, entitled to be called a decision, which should govern us.

But, upon principle, I think it would be contrary to the principles of our government to compel a juror to show that by reason of conscientious scruples, he was disqualified from exercising an important privilege, such as that of serving upon juries. The examination for that purpose would necessarily be inquisitorial in its character, and, the right once admitted, it would be difficult to define its limits. We therefore decide that the question cannot be put.

Mr. Ross. May we prove that the juror is one of a denomination of people who do have such conscientious scruples?

COURT. If you can show that it is a *rule of faith* with his society, and he is in full standing, perhaps you may: but it is not a matter of conscience in the society of Friends, as a society. Many of its members have such scruples, others have not.

Mr. Reed. Will the Court instruct the jurors that they have the right to excuse themselves from conscientious motives?

COURT. We will not interfere. It is in exemption the juror may ask, and we will not go further.

Mr. Ross's request that he might be allowed to instruct them, was also denied.

Juror. I have strong doubts of the propriety of capital punishments—but have no scruples of conscience on the subject.

The Court directed the clerk to proceed in calling jurors until two should be qualified, who should act as *triers* of Mr. Balderson. This was done, and Mr. Balderson was found, upon examination, to be indifferent, and therefore qualified. Lewis Smedley stated his conscientious scruples, and was excused.

Two others were tried, and having previously formed or expressed opinions as to the guilt or innocence of the prisoner, were set aside. Twenty persons were challenged peremptorily, and one for cause.

The following named persons were severally sworn or affirmed.

John B. Balderson, *affirmed*.
 Joseph Paul, *affirmed*.
 Henry Licey, *affirmed*.
 John Shutt, *affirmed*.
 Joseph Watson, jun. *affirmed*.
 Henry Hartzell, *affirmed*.

John Palmer, *affirmed*.
 John Yardley, *affirmed*.
 Lewis Kinsey, *affirmed*.
 Robert Phillips, *affirmed*.
 Richard Leedom, *affirmed*.
 William M. White, *sworn*.

Mr. Ross opened the case for the prosecution, as follows:—

May it please the Court,

Gentlemen of the Jury—

The Grand Inquest of the County, at the last Court of Oyer and Terminer, returned to this Court a bill of indictment, charging the prisoner at the bar with the wilful, deliberate, and premeditated murder of William Chapman, by administering poison. To this indictment she has pleaded not guilty, and has put herself upon her God and her country for trial. You, gentlemen, constitute that country, and you have just been solemnly sworn or affirmed to decide upon her guilt or innocence according to the evidence that may be adduced before you. In fulfilling this duty, so solemn and sacred in its character, you will no doubt be governed solely by a strict regard to the public justice of the country, and the maintenance of those laws, which alone can secure us in the enjoyment of our lives, our liberty, and our property. The crime of murder has occurred so frequently in this county within the last few years, that it is calculated to awaken the fears of the community, and to render it imperiously the duty of jurors to carry into execution the laws of the Commonwealth, without regard to the consequences that may follow a verdict of conviction. Scarcely, indeed, has more than one year passed by since there was placed at this bar, upon his trial, a *brother* charged with having imbrued his hands in the blood of a *brother*. In the same bar, and before a jury of the same County, there is now about to be placed upon her trial, a *wife*, charged with having been the destroyer and the murderer of her husband.

Incredible as it may appear, that a crime so heinous in its character, and evincing so much profligacy and depravity of heart, should have been perpetrated within the limits of this peaceable and moral community; nevertheless, the evidence which we shall lay before you, will irresistibly lead you to the melancholy truth, that the prisoner at the bar is guilty of the offence with which she stands indicted.

The indictment which you are about to try, contains three counts, and charges Mrs. Chapman, jointly with another, with the perpetration of this murder. She is indicted as a principal in all the counts. A principal in the first degree, is one who is the actor or absolute perpetrator of the crime. I will not now trouble you with the law relative to principals, as it will be fully detailed to you in the future progress of this case; but will proceed to disclose to you the evidence which will be offered in support of this indictment, and to which I now ask your serious and undivided attention. It appears that some time in the month of May last, about twilight, there appeared at the door of Mr. Chapman's residence a stranger calling himself Mina, and asking permission to stay the night. Representing himself as the son of General Mina, and as being poor and friendless, in a strange land, the permission was not only granted, but he was seated at the family board and partook in other respects of the hospitality extended to him by the unfortunate husband of the prisoner at the bar. He prolonged his stay at Andalusia, where Mrs. Chapman soon contracted that ill fated intimacy with him, which alone could have induced her to conspire against the life of her husband, and which is not only about to bring upon her own head the vengeance of the law, but must, in some measure, entail misery and disgrace upon her innocent and helpless children. The evidence will disclose such a scene of profligacy and immorality as has been seldom witnessed in this, or indeed in any other country. Immediately after this stranger had taken up his residence in the family, Mrs. Chapman virtually divorced herself from her husband. She treated him with the greatest cruelty and indignity, and not only reproached him with the most opprobrious epithets, but repeatedly expressed a wish that he was gone. In fact, all that affection and kindness which a wife should entertain for her husband, seemed to have given place to the most deep and bitter hatred. Entertaining this dislike of her husband it is not surprising that she should have formed an illicit intercourse with this person, who had thus introduced himself into her family. The

evidence will leave no doubt upon your minds that such an intimacy had existed between them for some time previous to the death of her husband. So wanton was her conduct, and so openly and shamelessly manifested, that it attracted not only the observation of her neighbours, but of her own children and family. The maid servant left the house in consequence of the gross impropriety which she saw, and Mr. Chapman, the husband, not only ordered Mina from the house, and complained of the ill conduct of his wife, but wept bitterly over the misery and disgrace, which she was almost daily inflicting upon him. Having laid before you this testimony, we think that we shall have assigned a motive for this horrid transaction, and have satisfied you that Mrs. Chapman was possessed of no moral principle sufficient to restrain her from the commission of the dark and nefarious deed with which she stands charged.

We will endeavour to show that a conspiracy existed between these individuals to poison Mr. Chapman. Mina, on the 16th of June, was in the city of Philadelphia, and we shall be able satisfactorily to prove to you that he at that time purchased of a respectable druggist a quantity of arsenic. He stated that he was making a collection of birds, and that he wished the arsenic for the purpose of using it in their preparation; whereas the evidence will be clear and positive that he, at that time, could not have been engaged in collecting birds. The next day after his return to Andalusia, Chapman was taken sick. This sickness, when first taken, was of so slight a character that the physician who saw him, on the 19th, did not deem it necessary to visit him again. He grew better, and on Monday, the 20th, Mrs. Chapman prepared for him some chicken soup, which she took from the kitchen to the parlour, for the purpose, as she stated, of seasoning it. When the soup was taken to the parlour, she and Mina were the only persons left in the room. We shall endeavour to prove to you by the declarations of Mina, that Mrs. Chapman at that time took the poison and mixed it with the soup. It was taken to Mr. Chapman during the morning, and he took a small quantity of it; the remainder was thrown into the yard. In the evening of the same day, the chicken of which the soup had been made, was taken up to him, and a very small portion was eaten; the remainder of this also was thrown into the yard. The next day, the ducks of a neighbour, which had been in the yard where the chicken was thrown, died in a very sudden, and at the time in a very unaccountable manner. Immediately after taking the soup he grew worse, and complained of a burning heat in the stomach. He said that something appeared like fire in his stomach, and that it was the seat of all his misery and pain. In fact, every symptom of his disease indicated that arsenic had been administered to him. On Monday evening he was visited by a friend, who found him in a great deal of pain, and suffering for the want of attention. He made a particular request, that this person would remain with him that evening and take care of him, as his wife neglected to pay him any attention. This friend stayed with him, as requested, until nearly 11 o'clock, when Mrs. Chapman came into the room and requested him to retire. He however, before he retired from the room, requested her to send for a physician. She declined doing so. He again earnestly besought her to permit him to go for a physician, but she persisted in refusing, although her husband was then so ill that it was doubtful whether he could survive till morning. No physician was sent for until a very late hour on Tuesday evening, when Dr. Knight was called in. Mrs. Chapman however refused to administer his prescriptions, notwithstanding she was particularly enjoined to do so by the physician himself. He lingered until the morning of the 23d, when he expired; and on the 5th of July following, she married the individual with whom, it is supposed, she conspired against the life of her husband. Three months after his decease, circumstances having occurred which induced a suspicion that he was poisoned, the body was disinterred, and a chemical analysis made of the stomach by two distinguished chemists of Philadelphia. In the opinion of these chemists, as well as in the opinion of the experienced anatomists who examined the body, the death of Mr. Chapman was occasioned by the administration of arsenic, and not by cholera morbus as had been alleged.

In addition to this testimony, we shall also lay before you a letter of Mrs. Chapman, in which certain expressions are used, which will leave but little doubt upon your mind, that they have reference to the crime of which she now stands indicted. Her conduct in various respects, furnishes, when taken in connexion with the other circumstances of the case, very strong presumptive evidence of her guilt. Such for instance, as assigning different reasons to different individuals, when interrogated,

as to the cause of her husband's death; treating him with so much cruelty and neglect during his sickness, as induced him to complain to the rest of his family, that he believed his wife wished him gone; and finally flying from the county upon the first intimation that she was suspected. These circumstances will all be proved to you, and will, I have no doubt, be sufficient, independent of the positive testimony, to enable you to render a verdict of guilty.

The case does indeed afford another striking proof of the truth of the line, that "blood, though it sleep a time, yet never dies."

Wednesday Morning, February 15.

TESTIMONY FOR THE PROSECUTION.

MARY PALETHORPE, affirmed.

(Witness is about twelve years of age.) I lived last May, at Mrs. Chapman's. A person came there about dusk. He said his father was Governor of California—told this to Mr. and Mrs. Chapman, Mr. Foreman, Mr. Ash, Mr. Cruiser, and the children. He called himself Lino Amalia Espos y Mina. He asked to stay all night. They permitted him to do so. They took him down to eat with us—I don't know exactly who took him down. I could not understand distinctly what was said—Mrs. Chapman appeared to understand him the best. He said he slept at the tavern below—they told him at the tavern he could not stay there all night. He had on a light suit and a roundabout. When he asked to stay all night, Mr. C. told him there was a tavern above there—Mrs. C. said, I think we can lodge him to-night. This was all that passed that night, that I recollect. He lodged in a nice room, and had a feather bed—his room was not in the garret, but it was a room like a garret. I think he said he came from Santa Fe de Bogota—he said his father sent him to France with a Doctor; the Doctor died in church with a fit—he said the people of France came and took his trunk, which had a good deal of money in, and the man's too: and told him he was only the man's servant. The next day, or day following, after he came, Mrs. Chapman and Mr. Ash went up to Bonaparte's with him. I don't know when they got back. There was no change made in his dress that I know of, the next morning after he came. I was away about a week from Mrs. C's.—Mina was there when I returned. I could not say exactly, there was any change in his appearance. I saw Mina and Mrs. Chapman together often. Mina used to have fits, I believe. When he had them we would all be in the room; when they were going off, we were all sent out of the room, except Mrs. C.—She staid in. I did not think he had fits at all. Sometimes he would lie still, sometimes not; he would get up and walk about after he had a fit. I have known Mina and Mrs. Chapman go into a room together and shut the door—I do not know that they closed the windows. I don't think she treated her husband right—She called him a fool, one Sunday, as we were going to church: this was after Mina had come there. I do not recollect a dispute that took place at the breakfast table. I recollect there was a difficulty between them in consequence of his neglecting to call the people to breakfast. I could not tell it exactly as it was—she told him to call them to breakfast, and he did not go right away; we were going to have prayers: because he did not go, she said she would not have prayers, and they sat down—she took the prayer book and locked it up. I think we had prayers afterwards, but none on that day. The person in the bar is Mina. They rode together more than once, sometimes a long, and sometimes a short time. They rode sometimes alone, and sometimes with other persons—can't say how often they rode alone together. When Mina came to the house he spoke bad English—I could not understand all he said.—His conversation appeared to be addressed to both Mr. C. and Mrs. C.—Mrs. C. conversed principally with him. I can't say how long this was before Mr. C.'s death.—I think Mr. and Mrs. C. had a difference about the horse and carriage—I can't say exactly what it was—something about Mina going to town: Mina wanted to go to town.—Mr. C. said he should not have the horse and carriage—Mrs. C. said he should. I think he did go: Mr. Bishop went with him. Mr. C. gave no reason that I recollect, for not letting him have the horse and carriage. I cannot say how long this was after Mina came to the house. I went to Mr. Chapman's to school. Mr. Bishop came there to be cured of stammering—he said he came from Vermont.—I do not know where he is now. There were five scholars there—Mr. Cruiser, Foreman,

Ash, Fassit, and myself. I never heard her (Mrs. C.) make use of any cross language to Mina.

Cross-examined by Mr. Brown.

I was at school at Mrs. Chapman's six weeks altogether. Mrs. C. had the chief management of the school. I think I had been there about two weeks when Mina came. I commenced school in May. He arrived on 19th May, I believe; about dusk. I was in the school-room down stairs—Mr. C., Mrs. C., the scholars, and the children were with me. Mr. Foreman went to the door when Mina knocked. Mr. F. came in and told Mr. Chapman there was somebody there wanted to see him. Mr. C. told him to come into the room. Foreman brought him in. I don't know exactly what Mina said, but he asked for a night's lodging. Mrs. Chapman replied, she thought he could stay there all night. Mina said they had refused him lodging at the tavern below. Mr. C. said there was a tavern above. Mina said he came from Philadelphia that day, and was going to Bonaparte's, for money, I believe. I don't remember he said he had been at Bonaparte's. I don't remember his saying how he came to this country from France—I think he said he had been very ill—I don't remember his saying he had been subject to fits. He said he had been cupped. I was in the room with them till supper time—then I left the room. I was present again that evening when they were together. I don't think Mr. C. showed much interest in him after he told his story. Mr. C. did not refuse him permission to remain. No wayfaring strangers stopped there while I was there. There was no room in the house called the beggar's room. Mr. Ash drove the carriage when they went to Bonaparte's. I believe Mina went for money—he expected to get it from Bonaparte. They set out directly after breakfast—I don't know where Mr. C. was when they started—I was in the piazza. I don't know of Mr. C.'s objecting to their going. I recollect Mr. C. writing letters to Mina's relations—his father and mother. I was once in the room when they were writing letters. Mina was in the room and took charge of the letters—he said he would take them to Philadelphia. He did not say he would take them to the consul for the purpose of sending them to his father. I have heard them speak of the consul. Mrs. C. accompanied Mina to town when he took some of the letters. I did not understand from them that they had been to Philadelphia for letters. I think they said they went to the consul's (Col. Cuesta). I believe they mentioned it to Mr. C. I don't recollect what Mrs. C. said, took place.—She said Mina dined at the consul's—I do not remember that she said she understood at the consul's that Mina was a distinguished man in his own country. I observed a change in his dress while he was at Mr. Chapman's—he had a new suit of clothes—the first suit was brown. I do not remember Mr. Chapman ordering him a suit of clothes.—I remember his getting a suit of black; he said his sister had died. I don't know where he got it, nor that he applied to Mr. C. to get it for him on account of his sister's death.

Cross-examined by counsel for prosecution.

The carriage they went in to Bonaparte's had a fall-back top—I never saw any letters from the Mexican consul to Mina—I live in Bensalem, two and a half miles from Mr. Chapman's.

ELLEN SHAW, second witness for prosecution, affirmed.

I lived at Mr. Chapman's last April a year, and left there last May. Mina came in the evening, and asked for victuals and lodging. I was milking when he came—the dog met him, and I called the dog away. He then came in, and was going to the kitchen: I told him he could not get in there, and he had better go on the piazza—So he went up, knocked at the door, and asked Mr. Chapman if he could stay there all night. Mr. C. advised him to go to the tavern; Mrs. Chapman took him into the room and got to talking with him: so they consented to let him stay all night. The next day she had a talk with him, and concluded to let him stay a few days till he got rested.

A day or two after, he wanted to go to Bonaparte's—she concluded she would go along with him in her carriage. They went in the morning, and came back in the evening. After they came back, she said, she had concluded to let him stay three years; she was going to teach him English; and he was to give her \$2,000 a year. I told her she had better let him alone; that he was a Spaniard, and a body did not know what he might do. She said he was a fine young man, and she was going to take him in as her own son; that she would be a mother to him, and her children would be sisters and brothers to him. After that, Mrs. Chapman and Mina were in the room together almost all the time. A few days after, they went to town; they went

on Monday morning, and it was expected they would be back on Monday night; they did not get back till Wednesday night. Mr. Chapman was dreadfully uneasy about their going away. He said he was really afraid there would be murder either on his own side or on Mina's—this was on Tuesday night, when they did not come home. Mrs. Chapman gave Mina some of Mr. Chapman's fine linen shirts—she gave him one the night he came there, I believe. She gave him a suit of blue clothes. They went to town together, and he got a black suit, but whether she gave it to him I cannot say. I don't know that I ever heard Mr. Chapman say any thing to Mrs. C. respecting her conduct. I have heard Mrs. C. tell her husband she was mistress in her own house, and she would do as she pleased. I have heard her say so several times. This was said after Mina came there. I don't know any more than that they used to be together. I was in the kitchen, and they were up stairs. They used to be together all the time—I used to see them kiss each other—this was before the death of Mr. Chapman. I left there about two weeks before he died. She used to be up in his room a good deal. I don't know that I know any thing else. Mr. Chapman slept in the room where he always did, after Mina came to the house. Mrs. Chapman also slept in the room where she always did. I can't say that all the time I was there she slept in the room with Mr. C. There was one night when he had fits, that she was up with him all night. No other person was up with him. I have often seen her in Mina's room; I have seen her there in the evening and in the day time, and especially when he would have those spells. I have seen her in the morning come down stairs. I have seen Mrs. C. sitting on Mina's bed. I saw her do this in the evening about 8 or 9 o'clock. No other person was in the room—Mina was lying upon the bed at the time, whether dressed or not I do not know. Mrs. C. had on her night-clothes. I saw her at another time in Mina's room in the day time—I went to ask her what kind of a poultice I was to make for the old gentleman's face—Mr. C. wanted me to make a poultice, and I did not know what kind to make. I did not speak to her then; I came away from the door, and went and made a bread and milk poultice. I did not like to disturb her, as she was sitting there talking. She said nothing to me. I once went out riding with them. My reason for leaving there was, there were things I did not like to see; her proceedings and Mina's I did not like; my folks were against my staying there. There was nothing more than what I have mentioned—my folks heard a great deal of talk about them. [This was the reason given why the witness's friends objected to her staying.]

When I went out riding with Lino and Mrs. Chapman, we went to Joseph Wright's, near Bustleton. He was lying in Mrs. C.'s lap nearly all the way, singing love songs. When we got to Joseph Wright's, they went out into the woods together, and were gone for two or three hours. We returned that night. Lino had one of his spells in the carriage, and we had to change seats—I got before to drive, and he got into the back seat, where he soon got better. I drove till we got home. Mrs. C. was behind with me when we first started from Wright's. It was near dark when we started from Wright's, which is about seven miles from Mr. Chapman's. We had gone about a mile when he got the spell.

I left Chapman's the following week. I can hardly describe the spells (of Mina) he behaved so queer. They did not appear to affect his general health. He was soon over them. Mrs. C. generally attended him when he had these fits.

I saw Mr. Chapman after he was a corpse. I went down to see him. I saw Mina going through the kitchen as I went in.

Mrs. C. and her husband did not live upon very good terms—he complained. I have heard Mrs. C. scolding him. She spoke pretty harsh sometimes,—she wished he was gone from the house, and would get ready and start;—she used to tell him she was ashamed of him;—she said she wished to *** he was gone, for she was tired of him. This was after Mina came to the house. After Mina came, I observed a change in Mrs. C.'s conduct; she seemed as if she was weaned from Mr. Chapman and her family. I one day saw Mrs. C. give her husband a push with her foot. She was very angry, but said nothing.

Cross examined by Mr. Brown.

I have been examined at the coroner's jury; in the (grand) jury room; and once at Cornwell's by Esquire Barker. I don't know that I ever told this story except when I have been called. I have been talking something about it with Mrs. Palethorpe since I came here. I did not tell it to Ann Bantom. I have had no difference with Mrs. Chapman—I thought Mr. Chapman did not settle with me fairly for my

wages. They both engaged me, and made the bargain with me. Mrs. C. always had the chief management of the establishment. She generally gave directions and made contracts in regard to it. Mr. C. in some things took very little part in what was going on.

Mr. Sheppard and Mr. Vansant were all the boarders when I went there. She had five children; and a little boy was also boarding there. Mrs. C. taught the school, and made the contracts for the scholars. I don't think the want of harmony was so great before Mina came as after. Before that they had words—about like other people. My business was in the kitchen chiefly; the kitchen is in the cellar. There was nobody else there. I was confined pretty closely to the kitchen.

Mina was very dirty upon his arrival. He was not much exhausted, apparently. He was dressed in dark clothes. His shirt was not worth any thing. He told me no part of his story before he went to the door. It often happened that those who were travelling applied there. Both Mr. and Mrs. C. were benevolent and kind to those who were in that condition. We had a room called the "beggar's room," on purpose. I am certain it was Mr. C. who came to the door—I was standing right before the piazza. I heard Mr. C. distinctly say to him, there was a tavern he could go to. Mr. Ash or Mr. Foreman was along with Mr. Chapman. Mina told Mr. C. he had no money to pay for his lodging. I did not hear him say where he came from, or was going to. When he had told Mr. C. he had no money, &c. they went in. I don't recollect any words that passed there but what I have stated. I think Mrs. C. met him in the entry—I did not see her at all.

I cannot say whether she was often engaged in instructing him in the language, as they were so often engaged in a private room by themselves. I mean the parlour. I did not know how the \$2,000 was to be paid. I made no inquiries. I have heard her say he was a distinguished man in his own country and very wealthy. He said he was a governor; and very rich, and was going to send over for diamonds. On one occasion, he and Mrs. C. brought news that his sister was dead—he had the suit of black when he came—I don't know whether Mr. C. ordered the suit or not.

I know of no objection on the part of Mr. Chapman to their going to Bonaparte's. Mr. Ash drove the carriage, I believe at her request. Mina thought there was a gentleman at Bonaparte's who would assist him. The account he gave (on their return) was, that Mr. Bonaparte had company and did not come down to see him. I don't remember that it was said that two Spanish gentlemen had left the Count's two days before. They arrived between sunset and dusk. I observed no impropriety as to that matter.

Mrs. C. generally attended to the out-door concerns as well as those within.

I believe Mr. C. wrote letters to Mina's relatives at his first coming. Mr. C. was kind and attentive to him; but he dare do no other. I do not know to whom the letters were written. I heard Mr. C. say that they need not be uneasy about Mina; that he should be taken care of as his own son. I think Mrs. C. wrote to his mother. I do not know how the letters were sent to Mexico. Mrs. C. and Mina took them to the city. I have known Mrs. C. and Mina go to the city when there was no one else with them. That was the time when they went and staid three days.

They gave him a shirt the evening that he came, or the next morning. I heard Mr. C. ask her what he was to do for shirts if Lino had them all. I never knew him to object to her giving the shirt to him when he first came.

I wanted to go to Wright's and she offered to go. When we arrived there we found they had been whitewashing. Mrs. C. asked me to go along and walk with them. I sat in the room part of the time, and under the tree part of the time. They both sang love songs—he sang in broken English. She sang two or three pieces of songs. In going, Mina drove, and Mrs. C. and myself sat behind. He undertook to lay his head once or twice in my lap. I told him I didn't want to be troubled with such a butterfly. I did not hear him complain of the sun. I did not drive myself, when he rested his head on my lap. I believe I did undertake to drive once or twice, but he said I did not drive right, and took the lines out of my hand.

I lived between twelve and thirteen months with Mrs. C.—Religious service was performed during the chief of the time I was in the house; and much good did it do. [Being afterwards asked by the Court what she meant by the last phrase, she said, she had no fact to ground her opinion upon, that no good was done by the religious service, except the way things had turned out.]

The beds at Wright's were not brought down stairs (while cleaning the house).

I never knew Mr. C. to request his wife to attend on Mina.—Mina did not vomit on the journey.—I have known them to ride about the neighbourhood alone—Mina drove. The time that Mrs. C. told her husband she wished he was gone, was 3, 4, or 5 weeks before I left the house. I left on Tuesday afternoon, about two weeks before Mr. C. died. He died on Wednesday or Thursday night.—I don't know that Mr. Chapman requested that Mina should go (to Wright's).—The children were to have gone, but they could not be got ready.

Questioned by the Court.

She was not in the habit of singing songs. She had a piano, and played and sung hymn tunes. I can't tell any of the songs she sang.

I don't know of any improper familiarity at the time they were riding, except that he leaned against her, and she held him in her arms. I know of no other.—Mina never sang at home with her.

Wednesday afternoon.

Mr. Brown asked if the prisoner might be allowed to sit by her counsel.

The *Court* said she could not,—an application of that kind had been refused in this Court in a former case.

Mrs. ESTHER BACHE, third witness for the prosecution, sworn.

Two weeks before the death of Mr. Chapman I was at his house two days. Mrs. Chapman was remarkably attentive to Mina while I was there. After I arrived there, she took me up stairs and told me that Mina was subject to fits. She begged to be excused, as she said she had to attend on him. She went in and attended on him. I heard their voices distinctly, and sometimes heard Mrs. C. laugh. While she was in the room I requested her daughter Mary to call her, which she refused to do. I saw Mina next about dinner time, and there appeared to be nothing the matter with him.

In the course of the morning Mrs. C. came out, and I asked her how Mina was: she said his life was almost despaired of—he was no better. After dinner, Mina, Mrs. Chapman, and the daughter Lucretia rode out—they were gone till late in the evening. After they returned home, Mina was relating part of his history to Mrs. C. about his passage from Mexico. Mr. Chapman made some inquiry respecting his passage—he received no answer, but very ill looks from Mina. Mrs. Chapman apologized, and said, Mr. Chapman did not understand any thing, hardly, that was said. I retired to my room, and saw no more of Mina that night. Next morning Mrs. C., and Mina, and the servant woman, Ellen Shaw, rode out, and did not return until night—not while I was there, until ten o'clock at night. Ellen Shaw was not to have returned, but I believe she did.

I saw nothing else, except that once at dinner Mrs. Chapman behaved very unkindly to her husband: he did not come as soon as she wished: she told him, that another time, if he was not there when dinner was ready he should walk off until supper. She repeated it several times. He replied, that he could not at all times leave his study. I believe that was all—Mr. Fanning, Mr. Ash, and her children were present, and some others—whether Mina was present or not, I do not recollect. This was the first day.

Cress examined by Mr. Brown.

I live near Bridgeport. It was in the beginning of June that I went to Mr. Chapman's. Mina drove me down to the house. I was employed in making a dress for Mrs. C. I saw Mina after I left there—he and Mrs. C. called at my residence. I was never at Mr. C.'s before, nor since. It was Mrs. C. who told me that Mina had fits; he did not. I did not speak to him on the subject; nor to her after she came down stairs. I saw nothing ailed him when he came down to dinner. They went to a relation of Ellen Shaw's, when she went with them. Mr. C. was in the house at the time; I did not hear him object to the journey.

When Mina was mentioning his sufferings on board the ship, Mr. C. made some inquiry in a very pleasant way, respecting his passage. Mrs. C. observed my surprise (at Mina's silence and ill looks), and said that Don Lino did not understand any thing that Mr. C. said.

I never knew Mrs. C. to find fault with her husband for coming too early to dinner. Mina sat at Mrs. C.'s right hand at table; the chief of their conversation was together. Breakfast, supper, and breakfast, were the only three meals I ever saw him at.

I refused to go back to Mr. C.'s again—the reason was, I did not like the conduct of Mina and Mrs. C. towards Mr. Chapman.

By the Court. I could hear nothing that was said, when they were in the room together.

ANN BANTOM, fourth witness for the prosecution, sworn.

I was at Mr. Chapman's on Monday of each week for three weeks, washing, before he was taken sick. The next Monday after he was taken sick I went there to wash, and staid till Tuesday night. I came back again on Wednesday, and staid till Saturday night. I saw Mr. C. on Monday evening after I went there, and he told me he found he was a little better. I saw him again on that afternoon, and he told me he was not so well. There was some soup made for him on Monday morning by Mrs. Chapman. She made the soup, and put a little salt in it in the kitchen, and told me she would take it up in the parlour and season it. I did not see them take the soup to Mr. Chapman—I left her in the parlour and saw no more of it after that. I went to the parlour, to get something to use—I don't recollect what. I found Mina in there, and Mrs. Chapman went up just before me. She carried the soup up. There were no other persons in the room, but Mrs. Chapman and Lino. I left them there, I don't recollect when I saw Mrs. Chapman again. I saw Mr. C. on Monday afternoon, he said he did not feel so well as in the morning. He complained of a misery at his stomach—it appeared to him very much like fire; he told me if he did not get better than he was then, he could not stand it long. On Tuesday evening when I was going home, Mrs. C. called me up to see Mr. Chapman, how bad he was. She told me she knew he would not live, and asked me if I would come back the next day and stay with her. On Tuesday evening he seemed very bad—I can't tell any thing in particular, but he seemed very sick—I think he complained of pain in the stomach. He did not vomit any—I never saw him vomit. I can't say when I saw him attempt to vomit, but it was while he was sick. I was not up stairs much. Mrs. C. and the children were backwards and forwards attending him. I don't know that Mrs. C. was very attentive to him. She was down stairs a good deal. I don't know that any medicine was prescribed. Dr. Knight was sent for on Tuesday evening about dusk. I don't know that any medicine was given to him.

I first heard him complain of this burning heat in the stomach on Monday afternoon. Mrs. C. said the soup was intended for Mr. C. It was chicken soup. I saw it when she brought it down. I threw it out on the ground in the yard;—not in the paved gutter. The chicken was also taken up to him, but he did not eat it—I know he did not eat it, because it came down again. I think, but will not be positive, that it was taken up by Mrs. Chapman. The chicken was in pieces. I did not take notice whether it was cut in pieces before it was taken up. A small part of it might have been eaten without my noticing it. It was but a small chicken. I threw the pieces out of doors into the yard, where I threw the soup. The soup was taken up in the morning, but the chicken not until the afternoon. Mr. C. was sensible every time I saw him, without it was the night he died. I went back on Wednesday afternoon, directly after Dr. Phillips had gone away from there. I saw him on Wednesday night—he seemed to be in a great deal of pain and misery. He said nothing to me. He talked to Mrs. Chapman; I don't recollect what he said to her. Mr. Bishop, I believe, was in the room at the time. I saw Mina in Chapman's room at different times while I was up there. It was between ten and eleven o'clock on Tuesday night that I left Mrs. Chapman. Dr. Knight, Dr. Phillips, and Mr. Boucher were there. I don't know when he died—I was a-bed. He was dead when I got up in the morning. Mrs. C. told me that Dr. Phillips had been there on Sunday. I did not hear her say on Monday or Tuesday, any thing about his being likely to recover.

I did not see Mrs. C. put any seasoning in the soup while I was in the parlour. I went right out again as soon as I got what I wanted. I don't recollect what Mina was doing—or whether he was doing any thing. I don't recollect how much of the soup had been eaten. I saw Mrs. C. and Lino frequently together in both the back parlours. Once Mr. Lino had one of his fits in the back parlour, late in the afternoon: Mrs. C. and the children and myself were in there with him: when he came to, she told us he did not like to have any body in the room with him. She told me and the children to go out. We went—she staid in, and shut the door and the window shutters. I don't know how long she remained there. This was on Tuesday

of the week Mr. Chapman was sick. I have seen Mrs. C. and Mina several times alone together; I have seen them alone in the evening.

Mrs. C. told me that Mina was a young man of great fortune, and a young man she had taken a great liking to. She said she pitied him very much, to think he had lost so much. I don't recollect that she said any thing to me about her husband getting well.

I have seen Mrs. C. in Mina's room where he slept; it was when he had fits—it was the week when Mr. C. was sick. I have seen her standing by him, and at the side of his bed, where he was lying. He was dressed. I don't recollect that it was Monday or Tuesday. I was up no higher than Mr. Chapman's room. It was while Mr. C. was sick, and after his death, that I saw Mrs. C. in Mina's room. Mina's room was in the third story. I don't know that I had any conversation with Mrs. C. about her marrying Mina in case of her husband's death.

Question by Mr. Ross. Had you any conversation with Mina respecting the sickness of Mr. Chapman during the week he was ill? Question waived.

Cross examined by Mr. Brown.

I live in Burlington—I then lived in Bridgeport. I have had no conversation with any body about this case, except the witnesses. I have been examined twice before to-day.

I went to Mr. C.'s to wash and iron and do the house-work. When I was about to go away, she said it would be bad for him to die, and no servant in the house. She took Juliann the same time with me—Juliann was cook, and helped to do the work about house. I cooked after Wednesday; I suppose Juliann cooked before that. I did not see Mrs. C. take either soup or chicken up to Mr. C. I don't recollect when the soup was brought down—it was about dinner time. I don't know when it was taken up. Mrs. C. put it on the table, and left it there—she did not say whether Mr. C had taken any of it or not, but said he did not want any more of it. I don't recollect whether Juliann was in the kitchen then or not—she was staying there, but she was sick on Monday and Tuesday. My business generally was not with the victuals. I don't recollect how soon after the chicken was taken up that it was brought down. I don't recollect how long it was after she went up, that I threw it out. I ate none of it, nor drank any of the soup. I could not tell whether any of the soup or of the chicken had been taken. I don't recollect that she said any thing about eating the chicken. I was busy that day both in and out of the kitchen. The whole five of the children were in the habit of being in the kitchen every day. The dining-room adjoined the kitchen. It was on Wednesday that I last went to the house—I am certain I was there on the night that he died. Dr. Phillips was with him when I went to bed, which was between ten and eleven o'clock—he was there next morning. No other physician was there. Mr. Bishop was there. I went up on Wednesday afternoon—I met Dr. Phillips as he was coming away from there.

It was on Tuesday that Mrs. C. told me she did not think he would live. Mina had one or more fits on that day. I don't know that there was any body to take care of her five children;—the youngest may be four or five years old.

I went up on Monday afternoon, at my own instance, to see how Mr. Chapman was—I expected to go home that evening, but Mrs. C. persuaded me to stay till Tuesday. They told me on Tuesday he was very bad, and I did not like to go. I went home that evening about nine o'clock.

Lino's fits were not violent while they lasted—he had one on Tuesday in the back parlour; he recovered about dusk. I don't know whether it was usual to shut the window shutters about dark, but it was not dark when she shut them. I saw them shut as I went out on the back porch.

I went up stairs to assist Lino, when I saw them together. Mrs. C. always assisted him—and I went up to tell her she might come down, I would stay. I did assist her.

By the Court. I don't recollect seeing Mrs. C. take the soup out of the small pot, in which it was made—I won't be certain whether she took it all out. I do not think she cleaned the pot. I think there was rice in the soup. A whole chicken was used, but whether cut up before or after, I cannot say. Mrs. C. gave me no directions to throw the soup or the chicken away. The chicken stood on the table till tea-time, and then I threw it out. I threw out the soup when I washed up the dishes.

When the soup was taken out, the chicken was left covered in the pot. I received no directions from Mrs. C. with respect to the soup. I do not know whether it was the usual practice of the family to throw away a whole chicken that had been boiled for soup.—The bowl in which the soup was taken, would hold more than a pint.—The soup was standing on the kitchen table, while I was eating my dinner, at that table. The chicken had not then gone up stairs. I won't say for certain that I saw the chicken taken up.

Adjourned.

Thursday morning, February 16th.

RICHARD WATKINSON, fifth witness for prosecution, sworn.

I reside in Philadelphia, and am engaged in the tailoring business. About the 16th of May, (the precise date will appear by my order-book,) Mrs. Chapman called at my shop in company with Mina. She came two or three times afterwards in his company. On the 16th of June, Mina purchased of me a black suit of clothing. The entry in the order-book stands as follows:

<i>Espos y Mina.</i>	<i>Black Cloth Frock,</i>	-	-	\$34 —
<i>June 16th.</i>	<i>Do. cas. Pants.</i>	-	-	13 —
<i>Mrs. Chapman will pay.</i>	<i>Do. do. 1 Vest,</i>	-	-	6 —

They were at my shop two or three times between the first and last visits. Mr. Chapman wrote me an order for the clothes.

Cross-examined by Mr. Brown.

This is the order from Mr. Chapman. (Produced and read.).

Andalusia, June 9, 1831.

DEAR SIR,—The bearer hereof, Don Lino, will present you these few lines. In consequence of the decease of his sister, (which melancholy intelligence he received a few days ago) places him under the painful necessity of making that change in his apparel which his affectionate regard to her memory demands.

Mrs. C. speaks of your intention to visit us soon with —; I shall be glad if you could make such a visit *very soon*, in order that I may be measured for a suit of mourning occasioned by the late decease of my much beloved brother, John W. Chapman.

The amount of Don Lino's suit you are at liberty to place to my account. With Mrs. C.'s best respects to Miss R. — and yourself,

I remain, dear sir, your sincere friend,

W. CHAPMAN.

It is my practice to make the entry when the goods are ordered. I have known Mr. and Mrs. C. for twelve or thirteen years, and was one of their pupils for four or five years. So far as I know, they lived harmoniously.

Mr. Chapman and Mina were not at my shop over three times altogether. At the first visit, Mrs. C. came in, and said she had a young man in her carriage, who had been very unfortunate; he had no money, having lost upwards of \$30,000 somewhere in France. He wanted to go to see the consul, but had not a suit fit to visit in. He wanted to get the consul to write immediately to his father, who was the governor of some island; she told me to make them and charge them to her. I told her I would do so. She stated that a remittance was shortly expected from his father, and as soon as the consul got the remittance, he would call and pay. Mina came out of the carriage to be measured. His clothes were pretty poor—he could hardly hold them up.

At the next visit, the clothes were not done—Mrs. C. appeared to be very much disappointed, that she had come all the way on purpose, and they should not be done—they were disappointed, she said, in going to the consul's. The carriage stood at my door, and her daughter Mary was in it.

Mrs. Chapman was pretty much the manager of the establishment while I was there. Mr. C. was an inactive man.

Re-examined. I was at Andalusia before Mr. C.'s death, as well as after. I went there after that event to inform Mrs. Chapman that Mina was ordering too much clothing. I thought it my duty to inform her.

The prisoner in the box (Mina) is the same who came with Mrs. C.

I saw Mrs. C. after I had been to Andalusia. She complained that she was not at home when I called. I told her my errand had been to inform her that I could not

make the other suit, as I thought she would be obliged to pay it; that it would be like taking the bread out of her children's mouth. I told her I thought he was a great scoundrel: that I had sent my young man to the consul's to inquire respecting him: the consul said he knew nothing of him, and knew neither him nor his father; and believed him to be an impostor. I told her I thought he was as great a scoundrel as ever lived. She replied, "I hope not, Mr. Watkinson." She then informed me I had acted perfectly right; she thanked me, and bade me good afternoon, and I did not see her afterwards. She appeared to be very much hurt after I mentioned this fact.

The entry of the last clothes ordered, is dated June 28th, and charged to Mina, with the following entries noted:—"Mrs. Chapman will pay." "Not made."

Mrs. C. was with Mina when this last suit was ordered. I told them the suit was of a high price. Mina spoke in Spanish to her, upon which she said, that Mina said \$40 was quite cheap; he had often given \$50. The price was high for a light suit (for summer) and I began to open my eyes.

It was on the fourth of July that I went up to Andalusia; and four or five days after that I saw her in town.

My shop is at the corner of Chesnut and Sixth streets.

ELIAS DURAND, sixth witness for prosecution, sworn.

I reside in Philadelphia, and am a druggist. I have never seen Mrs. Chapman, but have seen Mina. I do not remember precisely the time, but I believe it was about the middle of June, that Mina came to my store.

Mr. Ross, (being asked what this witness was to prove.) The object now is, to prove by this witness, that at the time alluded to by him, Mina purchased from him a quantity of arsenic.

Mr. M'Call objects, upon the following grounds. 1. In order to bind the present defendant by the acts of Mina, a *confederacy* must be established; of which, there is no evidence. 2. The parties are husband and wife.

As to the first point: The cases in which the act of one person is to bind another, are where *numbers* constitute the essence of the offence. *Com. v. Eberle*, 3 *Serg. & R.* This not being a trial for a *conspiracy*, but for the single offence of murder, evidence of the acts of one cannot be given to affect the other. To admit this evidence, would be to overturn the decision of the Court, that there should be several trials.

As to the second point:—The acts of husband and wife cannot be given in evidence against each other. *M'Nally*, 112. 2 *Starkie*, *708.

Mr. Reed said that there were various grounds on which he considered this as strictly evidence. In the first place, it would be perfectly competent for the prosecution to show that the prisoner had ready access to the poison which it is alleged she used. If it could be shown that a servant in the house purchased arsenic, even without authority from her, or that poison of that description was in her house, these would be circumstances that might be proved, afterwards to be connected with the prisoner. We propose now to show that an individual residing in Mrs. Chapman's house on terms of intimacy and familiarity with her, on the day before the deceased was taken ill, purchased a quantity of arsenic, and for this purpose the evidence is clearly admissible. There are, however, other points of view from which this matter may be regarded. Acts such as are proposed now to be proved are evidence as well of a *conspiracy* as of what is done in pursuance of a *conspiracy*. If two persons are indicted for uttering a forged note, the acts and declarations of one immediately before the uttering, are evidence against the other to show the *conspiracy*. 2 *Russell*, 698.—But has not such a *conspiracy* been shown as to enable us on the ordinary principle of law to give the acts of one in evidence against the other? The rule does not mean that an actual *conspiracy* should be proved by a person privy to it, who was present and heard the plans suggested and matured. Any unexplained association is sufficient. If the Court is satisfied there was sufficient association and *privity*, it will admit the evidence, to be entitled afterwards in the consideration of the jury to such regard as it may deserve. A distinction has been taken between acts of *agency* and *association*. This cannot be sustained. In the case of the *American Fur Company vs. U. Stats*, 2 *Peters*, S. C. 364, it was held that it was immaterial whether the party acted as the agent of another, or *in conjunction* with him, and that where two or more persons are associated together for the same illegal pur-

pose, any act or declaration of one of the parties in reference to the common object, and forming part of the *res gesta*, may be given in evidence against the others. In a case tried recently at the Mayor's Court in the city of Philadelphia, the doctrine was fully recognised. Case of *Comm. vs. Cutter & Francis*. It was a prosecution for an extensive larceny; Cutter pleaded guilty;—on the trial of Francis it was proved that on one occasion they were seen together, the Court permitted acts of Cutter to be given in evidence against Francis, and left it to the jury to say whether there was such a connexion between them as to make both responsible for what each had done. The position taken by the counsel for the prisoner arising from the relation of husband and wife, is utterly untenable:—No marriage has yet been proved,—and the fact is that no marriage occurred till long after the period when the arsenic was purchased.

Mr. Ross. The evidence, that is now offered, vitally affects the result of this case. If the Court decide that the evidence is inadmissible, it will be impossible under any circumstances to convict one of two joint defendants, where they have been permitted to sever in their trial. In order to evade justice, it will be merely necessary for each one to do distinct acts in the perpetration of a crime, and then to come forward and claim separate trials, and deny that the acts of one can be given in evidence against the other. The Court, in granting to these defendants separate trials, certainly did not intend that the evidence for the Commonwealth should be thus severed and destroyed. Whatever, as my colleague has already remarked, would have been evidence against the prisoner, if tried jointly, will be evidence against her now that she is tried separately. It has been contended by the opposite side, that we must show that a conspiracy subsisted between Mina and Mrs. Chapman, to murder the deceased, before the acts of one can be given in evidence against the other. (Here Mr. Ross adverted to the testimony, and endeavoured to show that such a connexion had been established between them as proved the existence of a conspiracy.) He then proceeded.—But I deny that in this case it is even necessary to show any privity or community of design, or indeed the slightest connexion between the defendants. The acts of Mina, or indeed of a mere stranger, may be given in evidence to prove the existence of a conspiracy. In addition to the authorities already cited, I will refer your Honours to 2d *Starkie's Ev.* 405, where it is laid down that when it would be difficult to establish the defendant's privity without first proving the existence of a conspiracy, a deviation has been made from the rule, and evidence of the acts and conduct of others has been admitted to prove the conspiracy, previous to the proof of the defendant's privity. And it makes no difference as to the admissibility of such evidence, whether the individual whose acts are proposed to be given in evidence be even indicted or not with the defendant upon trial. Neither is it material what the nature of the indictment is, provided the offence involve a conspiracy. Thus it is laid down in *Starkie*, that upon an indictment for murder, the acts of one are frequently received in evidence against another engaged in the same design, 2d *Starkie's Ev.* 404, 411. So also in burglary and various other offences, the same rule applies, (see also *Knapp's Trial*.) If, therefore, we have not shown such a connexion between Mina and Mrs. Chapman as proved a community of design, still it is manifest from the authorities cited, that the evidence may be received to prove such privity and connexion. If the jury should be of opinion that Mrs. Chapman knew nothing of the purchase of the arsenic, it could not operate against her. They are, however, to judge of its effect, and it should go to them for what it may be worth.

The second objection raised by the counsel for the prisoner, is that the acts of the husband cannot be given in evidence against the wife. Mr. Ross contended that this objection was equally untenable with the others. He said that the policy of the rule excluding the husband and wife from being witnesses against each other, was founded either upon the supposed bias arising from the marriage, or on the necessity of preserving the peace of families. The reason of the rule, therefore, could not apply to this case. The acts of Mina, which are now offered to be given in evidence, took place prior to his marriage with Mrs. Chapman. They cannot be affected by the marriage. The rule he said would indeed be pregnant with much mischief, not only in criminal but also in civil cases, if evidence of this description were excluded. If Mina himself were offered as a witness to prove the acts, there might be some plausibility at least in the objection; but he was unable to discover the slightest reason

for excluding the testimony now offered.—He cited *Commonwealth vs. Stoops, Addison's Rep.* 381.

Mr. Brown. No one shall be affected by the acts or declarations of any other individual. Acts and declarations stand upon the same basis in this rule. The exceptions to this rule are to be found in those cases where a *confederacy* of persons is requisite to establish the offence, and where such a confederacy or combination has been *proved*. 2 *Starkie*, 406. We aver, that the fact now offered would not have been evidence against Mrs. Chapman on a joint trial; because no conspiracy has been proved.

In adverting to the second point made by my colleague, Mr. Reed has said that there has been no evidence to show that the parties were married. But we rely for this fact upon the statement of the gentleman (Mr. Ross) who opened his case to the jury. His word is sufficient for our purpose. We urge, then, that the declarations or acts of a husband or wife cannot be given in evidence against the other; except in cases of personal violence. 1 *Hale, P. C.* 301. This privilege extends, with as much force of reasoning, to acts and declarations done or made, *anterior*, as *posterior* to the marriage.

COURT.—Elias Durand is offered by the prosecution to prove that, in June last, Mina purchased from him a quantity of arsenic. It is objected by defendant's counsel, that this is not evidence against *her*.—Whatever would have been evidence against Mrs. Chapman on the trial, had it been joint, is evidence against her now. The severance as to trial makes no difference as to that matter.

This evidence is now offered as one of a chain of circumstances to charge her with administering the poison; and it is clearly proper. If she is not connected with this fact by other evidence, it cannot affect her; but it is competent for the prosecution to prove it as a link in their proposed chain of evidence. The evidence is proper, too, as one fact to show a concert of action between the two defendants charged, with a view to make the acts and declarations of one, evidence against the other.

The alleged marriage between Mrs. Chapman and Mina, forms no objection to the evidence. The *fact*, that poison was purchased by any person being a member of her household about the time of the alleged murder, would be evidence, no matter whether that person were her husband, or a stranger—indicted or not indicted.

The evidence to prove the fact of the purchase is permitted to be given; but we do not now decide that any *declarations* of Mina can be given for the purpose of charging Mrs. Chapman.

Elias Durand called again.

Mina asked me, in Spanish, if I could speak Spanish. I referred him to my assistant, Mr. Guillou, who is acquainted with that language, and they conversed together. Mr. Guillou told me he asked for arsenic. Two ounces, or a quarter of a pound of arsenic was given to him. I think I weighed it and gave it to him myself. Guillou and Mina talked a while together.

Cross-examined by Mr. Brown.

I fix the date of his visit from the circumstance of Mr. G.'s leaving my store in August, and from estimation, I think it was about five or six weeks before. I had never seen him before. I met him two days after in my store. I had seen him pass several times during the day. He looked in my store, as if looking for some person. He stopped once while I was standing at the door, and asked me in Spanish if the young gentleman who spoke Spanish was in, I replied that he was not. I was absent, I think, in the course of the afternoon. When I came back, Mina, Mr. Guillou and his brother were standing together at the door in conversation. I think I have seen him at other times in the street.

When I heard of the death of Mr. Chapman, and the suspicions attending it, I thought of Mina. My store is at the corner of Chesnut and Sixth Streets.

By the Court. I cannot say positively what dress Mina had on the day he got the arsenic, but at the other times, he had a black frock coat, with crape on his hat. He was in full mourning dress. I did not learn his name.

(Adjourned.)

Thursday afternoon.

ALFRED GUILLOU, seventh witness for prosecution, sworn.

In the summer of 1831 I resided in Philadelphia, and was assistant in Mr. Durand's drug store. I have seen the male prisoner now in the bar at the store. The first time I saw him he came to inquire for the residence of the Mexican consul. He asked me in broken English, which induced me to speak in Spanish, in giving the direction to him. He then left the store, apparently intending to go there. Some time after, probably about two weeks, he returned, and spoke to me—spoke about the weather; and mentioned his being the son of the governor of California, &c. He left the store, and in two or three days returned; and asked me in Spanish, if we had any arsenical soap, for the preparation of birds; to which I replied, that we had not, but that we might prepare it. He said that was useless—but if we had the powder, that would answer. He asked the price by the pound—and then asked for a shilling's worth, which we gave him. He then left the store, and returned that afternoon, or the next day at farthest, and asked me if I would have any objection to write a letter for him, if he were to dictate it in Spanish. I told him I had no objection, and we set at it immediately. I wrote first a rough copy, and after I had done writing it, my brother Constant Guillou came into the store; he being better acquainted with the Spanish language than I was, I told Mina that he was a more proper person to do it than I was. I introduced him to my brother under the name of Cuesta, and my brother said he would do it; and accordingly did so. When he had done writing it, Mina remarked that he liked my handwriting more than that of my brother, and asked me to copy his rough draft, which I did. This is the letter. (Letter produced and read.)

Philadelphia, June 16th, 1831.

Sir,—I take the liberty of addressing you without having the honour of your acquaintance, from the deep sense which I entertain of your noble conduct toward my friend Mr. Lino Amalio Esposimina. That gentleman has given me to understand the sincere regret he experiences at not having it in his power to accomplish your request, and impelled by obligations under which your goodness has placed all his friends, I hasten to put myself at your disposal, and assure you that any commands you may think proper to honour me with, I will (to the fullest extent of my power) accomplish immediately.

With your kind permission, I will do myself the honour of calling upon you on Saturday or Monday afternoon next.

My mother, as well as myself, begs to be remembered to Mrs. Chapman.

EST. CUESTA.

Endorsed—"Mr. William Chapman, Esq."*

The flourish, under the signature, was added by me at Mina's request. He went away, and I never saw him again, until I saw him here. When he bought the arsenic, Mr. Durand was present. At that visit he wore a pair of false whiskers, and showed me how they were fastened.

Cross-examined by Mr. Brown.

Mina paid me four visits altogether—two on the same day. The last was two weeks and two or three days (about) from the first.

The letter was written on the day it bears date. He told me his name in no visit but the last, when he requested me to write the letter. It was after I had written the first rough copy he told me his name was Cuesta. The Mexican consul has the same name. The arsenic was purchased at the third visit—in the morning of the

* It may be well to state in this place, that however well versed in the art of dictation, the prisoner Mina has proved himself, by the above letter, and by several others hereafter to be introduced, his hand-writing is little calculated to impose upon even the most indifferent observer. His scrawl is truly miserable; and his spelling, to use the language of the consul in his testimony, "is peculiar to himself, and not to be found in the books." This defect of education was, however, readily accounted for by Mina, as will appear in the course of the testimony alluded to.

day that the letter was written. The price per pound was half a dollar—he got either two or four ounces.

CONSTANT GUILLOU, eighth witness for prosecution, sworn.

(Part of the testimony of this witness was substantially a repetition of that just passed, in relation to the letter. The rest is added.)

While my brother was copying my rough draft, I had some conversation with Mina. He was very polite—said his mother would be very happy to see me. He asked me if I had any intention at any time of going to Mexico; if so, he would be happy to take passage in the same vessel. I think that was all.

Cross-examined by Mr. Brown.

The letter was not exactly written from his dictation, but from his stating the object of it. He said Mr. Chapman had obliged his friend very much—that Mr. C. was not in good circumstances, and he, through gratitude for the favours shown to Espos y Mina, placed himself at Mr. Chapman's disposal. After it was done I read it in Spanish, and he nodded acquiescence.

EDWIN B. FANNING, ninth witness for prosecution, sworn.

I was at Mr. Chapman's about the 20th or 21st of June. On Monday, about nine or ten o'clock in the morning, I called at his residence to deliver some books, entitled *The Family Encyclopædia*, for which he had subscribed. Upon entering the house I learned Mr. Chapman was ill. I asked permission to enter the room where he was lying sick. I went in, and found him very ill; vomiting very much; complaining of pain in the chest and head. I mentioned while in the room that I was going to William Hill's, principal of Lower Dublin Academy. Mr. Hill had married a niece of Mr. Chapman's. Mrs. Chapman requested me to say nothing of Mr. C.'s illness unless inquired of by them; and if inquired of, to answer, much the same as yesterday; (which was Sunday.) I went to Mr. Hill's and returned to Mr. Chapman's the same day, a little after dark. I was requested by Mr. C. himself to tarry with him through the night and take care of him.

Mr. Brown objected to any evidence of what Mr. Chapman said.

Mr. Ross. We expect to prove by this witness, that Mr. Chapman said he was not attended to; that when Mina was sick, he (Chapman) was neglected.

Mr. Reed cited 2 *Russell*, 682. What was said by the party injured directly after the injury received, is evidence.

Mr. Brown took up the same authority, and commented upon it. The attempt is to give declarations of Mr. C. unfavourable to the character of the defendant—though not going to the main point. The neglect of Chapman is no part of the *res gesta*.

They are not declarations made *in extremis*, nor in expectation of death, in which case they are to be admitted.

Mr. Ross.—We allege that these declarations were made after the poison was administered. The deceased must be conscious of his danger, 1 *East's C. L.* 353-4. Here this is proved. Ann Bantom's evidence is, that he said he could not get well. Cites also 2 *Russell*, 686. Our object is to show that she had lost all affection for her husband.

Mr. Brown replied.

COURT sustained the objection, deeming the evidence now offered inadmissible at this state of the cause.

Edwin B. Fanning, called again.

I staid with Mr. Chapman until between ten and eleven o'clock. Mrs. C. came into the room twice during that time. The first time she did not tarry long. The second time, she thanked me for my attention to him, and said she would not trouble me to remain with him through the night. I then requested her permission to go myself for a physician: she said, not. Mr. C. being in great distress, I urged the matter, and was again refused. While I was with him I recommended salt and water to be given to him to stop his vomiting, as I heard it recommended. Mrs. C. said she would give it him. As Mrs. C. was in the room, I left it for a short time, and came in again. Mrs. C. gave him medicine out of a tea-cup. It passed for salt and water; I supposed it to be that. I remained in the room fifteen minutes; Mr.

C.'s vomiting I thought was increasing. After about fifteen minutes, I retired to the floor above, Mina's lodging room being near mine. Mina being up, I stepped into the room; he offered me his bed, and went below. I went to my own room.—I left Mr. C.'s residence next morning between eight and ten o'clock. Mr. Chapman was much the same then as the night before. This was on Tuesday. I was at Bristol the same day, and spoke to Dr. Phillips about him.

The next time I was at Chapman's was not until the Sabbath after his death. I saw Mrs. Chapman—she was cheerful; much as when I was first acquainted with her. I spoke of her husband's death, saying she had met with a great loss.

On Monday evening (my former visit) Mr. Chapman was not as well as in the morning.—I can't say that he threw any thing up—he appeared rather to be attempting to vomit. The intervals between the attempts to vomit were about fifteen minutes. The spells would continue about ten minutes. I heard him say—"I cannot live so."

Mrs. Chapman said something to me about the cause of his illness, I think on Tuesday morning. She said, "you recollect that he ate heartily of beef—stale beef. He has not been well since he ate that stale beef." She said this to me in my room.

There was some beef eaten within two weeks before the time she spoke of it. At the time she told me this, I had not said any thing to her about the sickness of her husband. I had seen Mr. Chapman after he had eaten the beef, and he complained of no illness.

Cross-examined by Mr. Brown.

I think it was on Tuesday afternoon I went to Bristol. On the Saturday I left Mr. C.'s he walked with me across the road to Mr. Bouthcher's. I don't recollect Mrs. C.'s asking me to go in and see him on that day.

The medicine, given by Mrs. C. to her husband, increased his vomiting. I am the individual who left his name, requested to be sent for, in case of an investigation.

DR. JOHN PHILLIPS, tenth witness for prosecution, sworn.

I have been called to attend Mr. Chapman's family at various times within the last year. Although I saw Mr. C. in his last illness, first and last, yet I saw very little of him; the greater portion of what I did see of his case, was ten or twelve hours before his death, when he was unable to give me any history of his feelings or his sufferings—I called to see him on the 19th of June, 1831. He appeared on that day to be labouring under very slight symptoms of indisposition. I paid him a very short visit; and advised some very mild course of treatment, I do not recollect what. I left the house very soon, under the impression that any further attention from me was unnecessary. On the Tuesday following, I received information from some source, that Mr. Chapman was much worse. I did not visit him until the following day, as I had no intimation from the family. On the afternoon of Wednesday I called at the house in company with Dr. Bearly; I went to his room, and was very much astonished to find him in articulo mortis (in the article of death). I have some recollection of his symptoms, but not very distinct. His extremities were cold and clammy—his pulse creeping, and barely perceptible—the skin upon his extremities appeared to be collapsed, or shrunken—his hearing entirely gone, which I was particularly struck with:—his countenance evinced a good deal of anxiety, and he seemed desirous to know whether he should or should not recover. His senses were so far impaired, that I could not make him sensible of what my opinion was. I procured a slate, but could not make him understand by writing. This was while remaining with him during the night. Another symptom was a discharge per anum, of sanies or bloody serum—I think involuntary. I laid down during the course of the night, desiring to be called, if any alteration should occur. I do not recollect how long I was absent from the room, but came in some time before his death, which occurred about five o'clock, A. M. He appeared rather calm an hour or two before his death, and expired in rather a comatose state. These are my most permanent recollections. The length of time before any inquiry made, was so great, that they have almost escaped me. Mrs. Chapman was in the room—Mina, I think, was also, but cannot say how often, or how long.

I took his disease on Sunday to be a mild attack of cholera morbus.—That was my impression—how I received that impression I cannot say. I do not know that

I received it from any thing said by any of the family. I do not recollect that he was vomiting.

I had a conversation with Mrs. Chapman on Wednesday, respecting his disease. I asked her what had been his former habits and diseases. She told me he had been subject to occasional attacks of vertigo, and that he had once been so much affected that he had fallen down with what were supposed to be apoplectic symptoms. I was not perfectly satisfied then as to the cause of his death, and I am not yet.

Cross-examined by Mr. Brown.

I have no recollection of being there on Tuesday. I think Mr. Chapman said a beefsteak would do him more good than any thing else. When I visited him the last time, I prescribed stimulant applications, as he seemed to be sinking very rapidly.—He kept medicines about his house. I saw no want of tenderness to him on the part of Mrs. Chapman. She left the room on Wednesday night at my request. I brought her and the children into the room as his dissolution more nearly approached. There was nothing at that time in her conduct unbecoming a wife.

By the Court. I was very much at a loss to account for his death. I have no personal experience of poisoning by arsenic. If arsenic had been administered, it would, I think, have accounted for some of the symptoms, and I am not prepared to say it would not account for all. But I am not prepared to say, that natural causes and natural disease might not produce the same symptoms. No symptoms can give any stronger evidence of poison than probability.

Mr. Chapman was a corpulent, short man—not robust. The symptoms I have described are much those of Russian cholera. Such symptoms might have been exhibited by a violent case of common cholera.

(*Adjourned.*)

Friday Morning, February 17.

DR. ALLEN KNIGHT, eleventh witness for prosecution, affirmed.

On Tuesday, the 21st day of June, I went to see Mr. Chapman. I found him very ill; he complained of a burning sensation in his stomach, and of vomiting and purging. His extremities were cold as high as his knees, and his mouth dry, with considerable thirst. I ordered calomel in small doses, and some other things—I do not recollect what. The calomel was objected to by Mrs. Chapman and Mr. Chapman. I staid about an hour, and then left. I returned next morning, and found Mr. Chapman considerably worse. He was entirely deaf. He was also delirious at times; a symptom which I did not perceive before. He complained as he did on the evening before—I ordered mustard plasters to his feet and hands, and some other things, I do not recollect what. The patient appeared to get worse from that time until he died. I was called about seven o'clock in the evening—(I live about a quarter of a mile from Mr. Chapman's.) I found Mrs. Chapman in the room. I called about eight o'clock on Wednesday morning. I did not inquire whether the calomel had been given or not. I do not know that any thing was given that was prescribed. I never saw a case exactly like his before death. I did not perceive any particular appearance after death. I observed the skin was coloured in different parts, under his eyes particularly, and under his ears. I saw no part of the body except the face—it was dark. On Tuesday evening he had no fever—his pulse was small. Fever does not universally follow cholera morbus, I have seen cholera without fever. Mrs. Chapman did not attribute any cause for his disease in his presence. I do not know on what ground she objected to the calomel. I was twice there on Wednesday. Something was said on that day about sending to the store for medicine, which I had not with me.

Cross-examined by Mr. Brown.

There was medicine sent for by my direction, on Wednesday, to Jesse Vandegrift's store. Laudanum was sent for—I do not know what else. I prepared the calomel at the time I directed it. I did not see it given. I have no reason to say why they did not give it.

I have practised medicine since 1827. The cholera morbus was not frequent in our neighbourhood. I saw Dr. Phillips there on Wednesday—he was not there on Tuesday. I did not on that day hear him complain of his head. I did not examine what he cast up. I do not know that he was salivated. I ordered him five or six doses of calomel on my first visit. Ice and vinegar were applied to his head on

Wednesday. He at that time complained very much of his head. I do not believe he was afflicted with a disease of the heart. I attended him regularly from the time I was first called. Mrs. Chapman absented herself more on Wednesday than I thought right. I do not remember her saying that she had no servant. I saw a coloured woman there that evening. Mr. Bishop was there. I do not know that he attended Mr. Chapman. I do not recollect how many visits I paid. I cannot tell what kinds of medicine I prescribed, they were not all of an active character. I do not know that Mr. C. had any reluctance to take the medicine. I have attended on the family before.

I made no particular examination of the body. Mina came after me on Tuesday evening. I was not sent for at any other time. I paid four or five visits from Tuesday to Wednesday. I saw Miss Kimble there on the first visit—I don't remember calling her over there. It was about 8 o'clock in the morning that I saw the spots (on the face). I attended Mina in one or two instances. I do not know who sent for me on Tuesday. I do not recollect that Mr. Chapman said any thing about the improbability of his recovery. On Wednesday evening Mrs. Chapman asked me if it would not be proper to inform him how near he was to his end. It is an unusual thing for such spots to appear so soon after death. I cannot account for his death. From any thing that I saw, I do not know that medicine had any effect on him. I cannot account for the spots below his eyes. Mr. Chapman's habit and make of body was of an apoplectic character. I was not acquainted with his constitution. The symptoms that I observed were not apoplectic. Apoplexy was not the cause of his death, in my opinion.

BENJAMIN BOUTCHER, twelfth witness for prosecution, sworn.

I was called between the hours of nine and eleven o'clock the night that Mr. Chapman died. When I went in the entry they were about getting supper. Mrs. C. took a candle and lighted me up to where he lay. He seemed uneasy. Mr. Bishop was standing by his bed-side. I walked round, took him by the hand, and asked him how he felt; he gave my hand a squeeze, and looked at me, but did not speak. Mrs. Chapman said he was hard of hearing. She spoke to him, and said, "this is Mr. Boutcher." She then went down stairs. I sat down with Mr. Bishop. Some time after he called out—Mr. Bishop then got something off the mantel-piece for him to drink—he took some of it. I asked Mr. Bishop what it was; he said it was gruel. Mr. Chapman then had a restless spell again—seemed sick—attempted to vomit, but did not discharge any thing. He lay easy after that. Dr. Phillips and Mrs. C. then came up, and Mr. Bishop went down. Mrs. C. was telling Dr. Phillips that Mr. C. had got out of bed, and fell and hurt his knee. Mr. C. then had another bad spell. Mrs. Chapman said she was drowsy from waiting on him—and while she went for the mint bottle he got up and fell. Mrs. C. left the room, and returned in a short time with three or four glasses of lemonade; she gave one to Dr. Phillips, and one to me; and Dr. Phillips said she should give the other to Mr. Chapman. She raised him up and he drank it, saying it was "fine." The salver and tumbler were handed to me, and I set them on the table. Mrs. Chapman said she was very tired, and would go and lie down. Dr. Knight came in before she went out. She mentioned to me if she was wanted, to give her a call. That was a little before 12 o'clock. Dr. Phillips said he would lie down. Mr. Bishop lighted him to a room—he left orders for us to wake him. At two o'clock he was failing fast; I called Mrs. Chapman, and Mr. Bishop called the doctor. Mina was in the room where Chapman lay; he asked me if I would not lie down, I consented. He then lighted me up to his bed-room, which was over that in which Mr. Chapman lay. I lay one hour or more. Mr. Bishop came up and said Mr. Chapman was dead. I went down, closed his eyes, and put a handkerchief around his jaws. They asked me to lay him out—I went home and sent for David Gando for that purpose—he did not come. I then laid him out. Dr. Phillips, Mr. Bishop, and Mina were in the room. Mina shaved him—he seemed stiff. I tore the shirt down the bosom—there was a bruise on his right side, which I pointed out to Dr. Phillips—he said he expected it was occasioned by a fall. There was another bruise on the knee, and one on the right shoulder. All these marks were on the same side. His neck was a little blue—there was a purple mark about the ears also. His nails were purpled before his death.

Previous to his death, Mina took out his watch, and said Mr. C.'s pulse beat 55 to a minute—after a while he said it beat 45. I asked him how many beats there were

in a regular pulse? He answered, he had studied medicine two years. I said I did not think he (Chapman) would live to see sunrise. Mina said, "when I was sick, Mrs. Chapman did wait on me night and day, and prayed for me." He then pretended to cry; but I saw no tears. He then asked me to go down and take some drink. I went down stairs.—Mrs. Chapman asked me to stay to breakfast (this was after the decease of Mr. C.) Dr. Philips told her that I could give her instructions about the burial. She wished him to be buried in the usual form. She said he had relations near, but she had not. I took upon me to invite their friends to the funeral.

I saw a change in Mr. C.'s face after death—it became dark. The body was very stiff one hour after death. I was surprised at it. There was a discharge from the body, of a dark green colour.

My ducks had been in the habit of going to Mr. Chapman's. They were there on Tuesday, the 21st day of June, between two and three o'clock. As I was going to the shop, I looked over towards Mr. Chapman's, and saw the ducks coming towards home. They seemed to be worried. They came in a row, one after the other. I had a fair sight of them, between the shed and the house. I saw Mina, standing by a buttonwood. The ducks came beyond where he stood, about ten yards. Before the ducks came through into the road, one of them fell over, dead. The rest came through the fence where the waste water emptied, and then another fell over. When they got nearly across the road, another fell over. One of my boys came out, and I told him to take care of the ducks—I went in the shop. After a little while the boy came to me and said that another was dead, and he thought they would all die. I told him to bury them. There were between twenty and thirty, that died that day and the next. They were young ducks. They were of two different broods. I think it was a dry day. Four of the ducks could not get through into Mr. Chapman's yard; those did not die. My wife said, that fish-water would kill ducks; I told her I thought they had been poisoned. They were all stiff—I had chickens at the same time, but I think none of them went into his yard. I believe it is not a common thing for ducks to fall over and die. I never kept any before.

The drain from the kitchen is in that yard—I believe it is covered, near the pump, and above it. The drain passes through under the fence, where the ducks passed through. My house is 60 or 70 yards from Mr. Chapman's.

I do not know that Mina had any birds at any time. I heard that Mr. Chapman had the cholera morbus. Dr. Knight said he had some symptoms of that disease.

My wife sold a chicken to Mrs. Chapman during the illness.

Mrs. SARAH PALETHORPE, thirteenth witness for prosecution, affirmed.

I staid with Mrs. Chapman on the night of June 23d. I went up to see the corpse—it was very offensive—I went to Mrs. C.'s chamber, and asked if he was in a state of mortification when he died, he was so offensive. She said she did not know. I said, you and the children had better take leave of him to-night, he will not be fit to-morrow. She answered, she had seen him, she did not want to see him. I asked her if I should take the children; I think she said yes, but I am not sure. I then took the children. Nothing took place that night worthy of notice. Next day, I said there must be some person to walk with her from the carriage to the grave; I asked her if she had a relative or a friend. She said, "why would not Don Lino do?"—I said no. She asked me why. I said, he was a stranger, and under size. She then said, "could he not walk with Mary?" (her eldest daughter.) I said, I saw no impropriety in that. We went to the funeral. Mr. Knight walked with her. I saw Lino on the day of the funeral. I had the charge of the house that day. I asked for sugar, and was referred to Lino—he had a bunch of keys—he gave me the sugar.

Mrs. SOPHIA HITCHBOURN, fourteenth witness for prosecution, affirmed.

I called at Mrs. Chapman's about three hours after the funeral. I asked her if Mr. C. did not die suddenly. She said he did, he was only sick five days. She said he died with the cholera morbus, she believed. I asked her if he had his senses when he died—she said she believed he had. I asked her if he was sensible that he was so near his end. She said she did not think that he thought he was so near his end, for the doctors gave him great encouragement. She then went on to state how he was taken. She said, he came in from the garden, and complained that he was hungry, and asked if supper was most ready—she told him it was not ready, but there was some nice smear-case on the table, and he could go and take a saucer full of that. He did so, and ate very heartily of it. They had supper directly, and had some fat pork which he was fond of, and ate heartily of that. After supper they went

into the parlour together—while they were talking he complained of feeling very unwell at the stomach; he thought he would like to take a spoonful or two of spirits—he did so, and felt better. Afterwards they sat there until near ten o'clock; they then retired, and both went to sleep, as she supposed, for she did herself. Some time in the night, between twelve and one o'clock, he spoke to her, and told her he felt in great distress; and wished her to get up and get him some peppermint; she got up to get him some, and went to the medicine chest, and it had been misplaced, and she did not find it until he had taken to vomiting. I think she said in the morning, she sent for Dr. Philips. He gave him something that helped him a good deal. The doctor called the next day and found him much better; he then said he might eat some chicken soup. She had a chicken killed and made some soup and gave him a bowl full, of which he ate very heartily and went to sleep. When he awoke, he told his daughter Lucretia to go down and tell her Ma that he wanted some of the chicken of which the soup was made. She took the plate that had the chicken on and sent it up by her daughter Lucretia, whom she told to tell her Pa that he might eat as much of it as he wanted. When the plate was brought down, he had eaten all of the chicken except the neck. He was taken worse soon after that, and vomited until he expired. Dr. Knight was in the room—he and Mrs. C. were conversing about Don Lino—she told Dr. Knight that this young gentleman who was with her had convulsion fits, she thought, and she wished him to prescribe for him without his knowing of it, as he had great objections to taking medicine from the doctors—he had studied medicine himself two years. The doctor asked her some questions, and she said she thought that dieting would be of service to him; if he would prescribe, she would see that he was paid; he was a gentleman that was immensely rich; his father was governor of California, his mother lived in Mexico, and his grandfather owned a silver mine. This conversation took place after the funeral.

I saw Mrs. Chapman at her house, about a week after Lino had left her to go to Boston.—She said nothing of him, except that he had left her without paying for his instructions; she expected he would remit the money from the north.

Ten or twelve days afterwards, between nine and ten o'clock in the evening, Mrs. Chapman came to my house after I had retired to bed. I came down stairs, and she apologized for calling so late—she understood that I wished to see her, and her son did not tell her of it until after eight o'clock. She asked if Mr. M'Ilvaine and Mr. Reeside had called at my house that day—she understood they did, and she thought it probable they had left some message for her. She asked me if I had seen any thing in the papers respecting the gentleman who had been with her learning the English language—the governor's son, of Mexico.—She was informed there was an advertisement of his being robbed of his pocket-book in Washington or Baltimore. I told her I had not seen any thing of it, but I had heard of it. She asked me if I would lend her the newspapers for a week or ten days past. This conversation was on the Thursday evening of the week preceding that on which Mrs. Chapman went away.

On Monday morning of the next week, I had a little conversation with her at her house. She asked me if I had seen any account in the paper of Lino. I told her I had been informed that he was arrested in Boston on suspicion of poisoning her husband.—She says, is it possible! She said, she had never heard of it. I told her I was informed that she was married to him in ten days after her husband's death. I asked her if she had any idea that Lino had poisoned her husband? she said she had not. She asked me if her name was in the paper—she said she hoped not. I told her I was surprised she could have done such an imprudent act. She made no reply for a moment. I told her they must be facts, or they would not dare to publish them. She then acknowledged that she did marry him, and stated the reasons why: he was very rich, and she thought he had a great disposition to go travelling, and therefore she thought it was best for her and her children's sake. The conversation was then dropped.

Cross-examined by Mr. Brown.

I live within half a mile of the place. I have been there on a visit, ten or twelve weeks. I saw nothing improper in her conduct. She was very economical. She was the owner of that establishment. She told me that Mina was to pay her a large sum of money for his instruction. It was in answer to my question that she told me that he had gone away without paying her. When she said she hoped her name was not in the paper, she said it would have an effect upon her character.

(*Adjourned.*)

MRS. ANN SMITH, fifteenth witness for prosecution, sworn.

Desiring to place my two children in a boarding-school, and having heard a favourable character of Mrs. Chapman, I went to her residence in the stage, with my eldest daughter, to make arrangements for that purpose. A passenger informed me on the way that Mr. Chapman had been buried the day before. I went to Mrs. Chapman's house, and knocked; a lady with a black dress, and white turban, with a lilac border, came to the door. I asked for Mrs. Chapman.—She said, "I am Mrs. Chapman, walk in." I introduced myself to her, and was making arrangements with her about my children, when one of her children said, "Mamma, here is Don Lino coming with two ladies." She turned to me, and said, "A gentleman who is learning English, was kind enough to go to Philadelphia, and get me help, for I am very bad off for servants." While we were talking, he came in (the same person who is in the box,) dressed in deep black. I then made my arrangements;—Don Lino left the room. When I got into the carriage, she observed, "that is the carriage that was at my husband's funeral yesterday." Her manner appeared as if there had been no trouble in the house; except once she went to the parlour window and said, that the sun looked gloomy.

I took my children there four or five weeks after I found Mrs. Chapman in the utmost imaginable grief. I was sitting with my husband in a room which was called the ball-room, when Mrs. C. came in, and asked me if I would be kind enough to send one of my children to a neighbour for a newspaper. I told her we were strangers, and I thought she had better send herself. She said she had been troublesome for papers, and would be glad if I would send. My husband said, "Yes, Ann, I would like to see the papers myself." I retired to my chamber, and while there, Mrs. C. came up and asked me if I would be kind enough to step into her chamber. When I went in, I found her sister (Mrs. Green) lying in bed, in tears. Mrs. Chapman then said to me, "Mrs. Smith, you appear to be a good-hearted woman, I am now going to place the same confidence in you that I would in my dear sister." I replied, "Mrs. Chapman, I hope I will not betray your confidence,"—having not the least idea what she was going to relate. She then said, "Mrs. Smith, this young man, of whom you have heard me speak, who has been boarding with me, I fear has turned out an impostor."

She had before told me, that this man came to her door, and asked for a glass of water; he went in, or was taken in to the school-room: he there asked how far it was to Joseph Bonaparte's; he said his father had sent him to this country with thirty thousand dollars—when he got as far as France he was robbed—a friend had given him 100 dollars, with one half of which he paid his passage to this country—when he got here he had but ten dollars, with which he bought him clothing. He said his object in going to Bonaparte's was to see a friend of the name of Cazenove; if he could see him he could draw on him to any amount. After telling that he was the governor's son of Mexico, he asked if he might be permitted to remain there all night. Mr. Chapman objected, saying there was a tavern to which he could go. Mrs. C. said to her husband, "My dear, you know there is a bed which has just been left vacant." Her husband then acquiesced and said, "My dear, if you think so." Next morning he said, "Suppose you go with this gentleman to Bonaparte's, and get some one to drive you." They accordingly went to Bonaparte's.—On their arrival the servant told them that Mr. Cazenove had been there, but had gone away; they then asked for Count Bonaparte, but he had company, and could not be seen for two or three hours. She then said, she would have to return to her school that night—and accordingly they returned. The next day he proposed going with her to the Consul's, at Philadelphia; and they went. While there, the Consul and his sister came into the parlour; after the customary salutations, that lady turned to Mrs. Chapman and said, "We are much obliged to you for your attentions to this young gentleman. He is a young gentleman of very large fortune in his own country." Mrs. Chapman then said to me, "Mrs. Smith, I can declare to you upon holy writ, that if she had not told me that this young gentleman was a gentleman of large fortune, I should not have been deceived; but she said so, and I believed it."

She then stated that her husband gave him an order on Mr. Watkinson for a new suit of clothes. He returned from Philadelphia, saying, that he understood his sister was dead, and that he wished a suit of black clothes. In a day or two after he

stated that his sister was not dead, as he had said, and that he wished to have a suit of brown clothes.

She stated, that he asked Mr. Chapman to write to his father for him.—Mr. C. said to him, "Lino, you know I do not understand your language—if you will write it, I will sign it." After signing it he said to him, "Lino, I have done for you what I never did for any body in the world. It shows the confidence I have placed in you, for I have signed what I do not understand." She said she wrote a letter also, of which she showed me a copy.

(Copies of the letters produced and read by Mr. Reed.)

(No. III. of the Papers produced in the course of the Trial.)

Andalusia, Bucks County, Pennsylvania State, May 16, 1831.

SIR,—I have the pleasure of addressing you on a subject that will doubtless be very interesting to you. On the 9th instant your son Lino Amalia Esposimina came to my house. He has a great desire to learn the English language, finding that travelling in the United States is attended with considerable difficulty without a ready knowledge of that language. He writes to you by this conveyance, and will acquaint you with his circumstances. He will continue here until he hears from you, during which time it is his intention to exert himself in acquiring such an addition to his English education as the time may admit of.

Herewith you will receive one of my publications, which will make known to you the profession in which I have been successfully engaged during the last fourteen years: should your station in life allow of your giving publicity to the cures that have been effected by me and my lady, great encouragement will be afforded to the unfortunate objects labouring under such a calamity as stuttering, stammering, or any kind of impediment of speech, in your section of country. Since the time that I was so fortunate as to effect a cure on myself, I have had four hundred and eleven pupils of both sexes, and all ages and conditions in life: of that number, several have come to me from Europe, the West Indies, and great distances in the United States.

With the greatest respect, I am, Sir, your most obdt. servant,

WILLIAM CHAPMAN.

*To his Excellency the Governor of the Province of California, }
Don Antonio Mara Esposimina,—City of S. Barbara, Re- }
public of Mexico.*

To the care of William Taylor, Esq. American Consul, Vera Cruz.

No. IV.

Andalusia, Bucks County, Penna., May 16, 1831.

DEAR MADAM,—Though I have not the pleasure of being personally acquainted with you, yet as kind Providence has directed your son to my house, (which I wish may be HIS HOME, till he receives intelligence from his fond parents,) I am happy to inform you that it will be the pleasure of my husband and myself to treat your son as our own child, while he remains in our house, and I sincerely hope he will not soon leave us, as myself and family are already much attached to him. Though he speaks the English language but imperfectly, yet he is very intelligent, and has given us interesting accounts of his family, in the English language. His manners are so mild and engaging, that he wins the affections of every one in our house, even our youngest child (a little boy three years old) is delighted to remain by him while taking our meals at the table. He has commenced studying the English language under my direction; and I shall be well pleased if his improvement should be such as to induce him to encourage others from California and Mexico to patronize me by sending their daughters to be educated by me in English. Your son talks of spending three years in my house, which I hope he will do; and if he does, you may rest assured, Madam, that parental attentions shall be extended to him by myself and husband. With much respect to your husband and family, I subscribe myself, dear Madam, your sincere friend,

LUCRETIA CHAPMAN.

*Para la Sn. Dn. Maria de Calme Mirones, en la Republica }
y Ciudad de Mexico.*

Care of Mr. William Taylor, American Consul, Vera Cruz.

Mrs. Smith continued. I forgot to tell the manner in which she said her husband died. She stated that he had eaten a very hearty dinner of pork; that he became extremely sick, took some brandy, which he said made him feel much better, and went to bed. In the night he awoke her, saying he was very ill, and asked her for the peppermint. She got up and gave it to him, or was in the act of giving it to him, and he became deadly sick at the stomach. The next day they sent for Dr. Phillips, who ordered him chicken broth; after taking this for a day or two, he got much better. He then said he had taken so much of the chicken broth and had gotten so much better, that he would eat some of the chicken without the broth. She dressed the fowl herself and sent it up by her daughter. When her daughter returned, she found he had eaten nearly all the chicken up—being very much surprised she went up stairs and said, “Mr. Chapman, how imprudent to eat so much!” His reply was, he had lived so long on chicken broth, and the chicken tasted so palatable, he could not help it. He was then taken very ill, and shortly after died. She then stated that after the death of Mr. Chapman, this man (Mina) became very attentive to the family. A few days after Mr. C.’s death he came to her and said, “Lino has one heart—Lino never forgets a favour—if you will marry me, I will take you to Mexico, and my mother will never forget what you have done—she has gold mines there, and you shall share a part of them.” She was surprised, and said, “Lino, would it not be more proper for you to marry my daughter Mary?”—He said, “No, it is you, Mrs. Chapman, that I wish to possess—it was you that took me in your door, not knowing who I was,” or something to that amount. She then mentioned to him the impropriety of marrying so shortly after her husband’s death. He said, it would be thought nothing of in Mexico—he did not wish that it should be known here; but it would be impossible for them to travel unless they were married. He said they would go to New York and get married; he would return to her house and take care of her family, and she could go on and bring her sister, Mrs. Green, who would take possession of the property while she was gone, and also take care of the school. They were accordingly married, and she went on for her sister. During her absence, two gentlemen, whom Mina styled the Minister and one of his Secretaries, came to the house. He desired to introduce them to Mary, her eldest daughter, but she excused herself, not being dressed. He then asked her to go to the store and get some refreshments. While she was gone, Mina took a trunk of Mr. Chapman’s, filled it full of books, and gave it to those gentlemen. A few minutes after, Mrs. Chapman arrived. The children told her that their papa’s trunk was gone. Mrs. C. having questioned Mina about it, he said he had given them a few books as a memento of Mr. Chapman, and that the trunk would be returned again. She told him her silver spoons were gone also. He said a black woman had taken them, and that he followed her to Philadelphia a few days after, and accused the woman of it—she was much confused, acknowledged it, and paid him for them in part, promising to pay the rest.

After hearing these stories, I said, “Mrs. Chapman, I should not be surprised if this fellow had poisoned your husband.” She gave a sigh and said, “Do you think so, my dear—those gentlemen intimated the same thing.” I asked, what gentlemen. She said, “Mr. M’Ilvaine, Mr. Blayney, and Mr. Reeside.” I observed to her, I had not seen them. She said, “No ma’am, as you did not know any thing of their business, I did not mention it to you.” I observed to her, I was very much shocked to hear it.—I wished to be out of the place. Her reply was, that “hear-say was no witness.”

A few days after that conversation, one of my children remarked that she thought Mrs. Chapman was going away, she was getting her riding dress brushed up. The house was in a complete state of distress and confusion every way. Mrs. Chapman was sitting, sewing, in her chamber, preparing to go; as I passed her door, she observed to me that she was going a little way to sell some books, she was badly off for money, and she meant also to take her daughter Mary with her, in order to save her feelings. My reply was, “Mrs. Chapman, don’t you think you are wrong to go at this time, it looks like running off.” She seemed a little hurt, and said, “No, ma’am, my object is to sell some books and get money.” I believe she went away that morning, or the morning before Mr. Ross (the Attorney General) came. I had this conversation with her the night before she went away.

Mrs. Chapman told me further, that Mina once asked her for her watch. She told him he had Mr. Chapman’s already. He said, he wished to have her watch as a memen-

to of regard. He then took a chain and presented it to her, saying, "this is a chain that a friend of mine gave me. I give it to you in return for the watch—when I come back you shall have it." He went away, taking all the money in the house, even to a little that her sister had. She at first wore the chain round her neck, but finding it irritated her skin very much, she observed to her sister, that when she went to Philadelphia she would inquire whether it was gold. She went up stairs, and found on the mantel a bill for himself and two females. (*Published with the letter to Mina.*) She got alarmed, and went to Philadelphia, and inquired whether the chain was gold. She discovered it was nothing but brass. She then made up her mind, she hoped he would never return. In the midst of her talk with Mrs. Green he came in. She said, "Lino, leave me." He replied, "What is the matter? if an angel from Heaven had come and told me a wife of mine would behave so, I would not have believed it." She said, "Lino, the chain you gave me is not gold." He replied, "If your affections are so slender as a chain, I can explain that to you. When I gave you the chain, I told you a friend had given it me—that friend might have deceived me, or might have been deceived himself."—As to the note from the City Hotel for the two females, he stated, that whilst he was in Philadelphia, a shower of rain came on, and he ran under the arcade for protection. While he was there, two ladies of distinction came and asked him if he had an umbrella—he said no, he was under there for protection himself—he remained there a little while with them, and then took them to the City Hotel; which accounted for the bill.—She then said, "Lino, my sister is not at all satisfied with this conduct." Said he, "We had better be separated, then—I find I have more wives than one to please." Mrs. Chapman replied, the sooner the better. He then said, "Remember, Mrs. Chapman, before we go, I must tell you something." She asked him what it was. He said, "I cannot tell you in the presence of your sister. If you will come in the other room I will tell you." She went into the room with him, and returned to her sister, saying, "Sister, Lino is not an imposter, he is a clever fellow." I asked Mrs. Chapman what it was that he told her—she said, "Well, ma'am, that's of no consequence, it was something between ourselves."

Cross-examined by Mr. Brown.

She said, she went to the consul's with Lino and her little son William. The consul asked them all to dine, but she declined, and went to Mrs. Lebrun's and dined there. She returned and found Lino drinking wine—she took him home in the carriage with her.

She said, that Lino told her the minister had rooms in the U. S. Hotel, and was absent from town; he (Mina) had the privilege of going there whenever he chose, and had servants to wait on him. I understood from her that she saw the gentlemen at her house, who were called the minister and his secretary. They were at dinner on her return. One of them was a genteel looking man, the other not so much so. I think I was at Mrs. Chapman's three months.

No. V.

I hereby certify that on this fifth day of July, in the year of our Lord one thousand eight hundred and thirty-one, Lino Amalia Esposimina and Lucretia Chapman, were by me united in holy matrimony agreeably to the form prescribed by the Protestant Episcopal Church in the United States of America.

BENJ'N. T. ONDERDONK,

Bishop of the Protestant Episcopal Church in the State of New York.
New York, July 5, 1831.

Witnesses present,

JOHN A. PORTAL,

JAMES BROCHARD, by JOHN A. PORTAL.

WILLIS H. BLAYNEY, High Constable of Philadelphia, sixteenth witness for prosecution, sworn. (This witness proved the handwriting of the prisoner, and authenticated certain letters about to be produced.)

The following letters were then read by Mr. Ross.

No. VI.

Albany, July 5th, 1831, 10 o'clock in the evening.

MY DEAR LENA,

Very pleasant are the sensations which vibrate through my soul, when thus addressing you ("My dear Leno,") for the first time to call you *mine!* and till death shall separate us! how pleasing, how delightful! and you, *dearest Leno*, so young, so fond, so noble, and so truly grateful to your *Lucretia!* my soul would gladly dwell upon *you* till the time for writing would pass away.

The stage is to be ready to leave here at half past ten this evening, so I have but half an hour to say all I wish to my *dearest dear*, as it was nearly ten o'clock when the boat arrived at Albany, and the Captain was kind enough to walk with me to the Columbian Hotel, a fine establishment, kept by Jessup and Haywood: and I would rest myself here for the night, but I recollect your particular request, to return as quick as possible, which I cheerfully comply with, and for this reason have requested to leave here to-night, or else I should not be with my sister to-morrow; I shall make a short stay with her; but will write to you again while with her.

I felt very lonesome on board the boat after you left me, though I was surrounded by hundreds. The stage has come, and I must bid you good by, though very unwillingly. Kiss all my dear children for me.

I remain yours truly, and for the first time have the pleasure to subscribe myself
LUCRETIA ESPOSIMINA.

ENDORSED—*Leno Amalio Esposimena, Esq. Andalusia, Bucks County, Penn.*

No. VII.

Syracuse, July 7th, 1831, Thursday, 1 o'clock in the afternoon.

I have this moment left the stage, and before I even take a seat, I hasten to procure pen and ink to inform my dearly beloved husband and children of the progress of my journey. I am less fatigued than I should have thought it possible; for after writing you a very hurried letter from Albany, I took my seat at 11 o'clock in the evening, in the mail stage, expecting to have reached here last evening; but at ten o'clock last evening, found I had 50 miles more to ride; and I very well know, that if my dear Leno had been with me, he would not have permitted his *Lucretia* to have rode a second night, all night, without resting on her bed. I have not lain down one minute, either night or day, since I took leave of you in New York, nor have I taken but one meal a day: on board the boat, (Tuesday) I breakfasted, yesterday I dined, and to-day I have breakfasted: the bell is now ringing for dinner, and I am politely invited into the dining room; but I refuse to dine, or even call upon my sister till I have taken the pleasure of writing a brief letter to my fond, to my very dear companion for life. I am at Comstock's extensive hotel, Syracuse, where the mail stage changes horses, and proceeds on its way to Buffalo. The stages from Albany to this place have not been crowded; but yesterday was a very rainy day and very bad travelling for the poor horses; and we had dull, sleepy drivers, too much so for mail drivers. I have nothing more to tell you till I have seen my sister, except I have just taken a fine glass of lemonade and a few crackers, which will serve as refreshment till I see my sister, and then I will write a little more to my dearest L. A. E.

Clay, July 8th. Friday 11 o'clock in the morning. I am now, dear Leno, at my kind sister's, whom I so dearly love, at a place called *Clay*, herself, husband, and children are in good health, and rejoice very much to see me. Yesterday after I left the Hotel at Syracuse, I called immediately on General Mann who with his lady urged me very much to spend the night with them; informing me at the same time that my sister Mrs. Green had moved from Syracuse, 10 or 15 miles into the country. I was sorry to receive this intelligence, but told Mrs. Mann that I should not sleep that night till I had seen my sister; she then (*then*) directed me to Mr. Sharp's, who married my sister's oldest daughter, and she with one of her brothers immediately procured a horse and carriage and rode with me to my sister's, arriving there at about 10 o'clock in the evening, finding sister and her husband in bed; after I knocked some time at the door Mr. Green arose and opened the door, I pretended to be a poor stranger, and begging for the privilege of a bed for myself and children, he went and asked his wife if she could accommodate us, but she not being very well, said she thought she could not let us stay, so her husband told me that there was a

tavern not more than a mile from his house, and we had better go to it; but I told him if he would but light a candle and give me a little refreshment he would very much oblige poor travellers, and at the same time informed him and his wife (for I had taken the liberty of walking into the house and had found the bedside of my sister, though all this time no light was lit up) I inform'd them that I had not rested on a bed for two nights, and was too much fatigued to go further, after about one-half hour's beging my sister arose and her husband lit a light, which very soon inform'd them who I was; after affectionately embracing my sister and taking a good supper, Mr. Green and their children retired to bed, but sister and I did not go; we sat and talked all night; you, my dearest Leno, was our principal subject; and before sunrise we had nearly said all we were wishing, and now sister is preparing to leave here with me on Monday morning next, and according to our calculation we shall be in New York on Wednesday morning next, and so shall be at Captain M'Elroy's landing on Wednesday, at about four o'clock in the afternoon. My dear sister and family join with me in sending you and our dear children all the *love* my letter will hold, so be careful, my dear, and do not spill and so lose our *precious love*. I have been particular to tell sister all you requested me, and—(*defaced*)—going to Syracuse this afternoon with her son and daughter, that this letter may be put into the post office there, as that is the nearest office to my sister's house. To-morrow she will go with me to take leave of her daughter Lucretia, who is married and last Monday had a little baby. Sister sais I must make haste and finish my letter to send to my "*pretty little husband*." My dear, I hope you will not let our children see the nonsense I have written. My very kind nephew is now waiting with his horse gear'd, and snapping his whip as you do sometimes, when a little tired with waiting, so good bye, good bye, dear Leno, good bye. It seems a long time to wait till next Wednesday, before I meet the fond embrace of him who is so dear to me, as is my young General Esposimina. Once more, my dear, adieu, sais your devoted

LUCRETIA ESPOSIMINA.

ENDORSED, *Leno A. Esposimina Esq. Andalusia, Bucks County, Pennsylvania.*

No. VIII.*

Philadelphia, July 18th, 1831.

MY BELOVED WIFE,—The moment I arrived I whent to the house of Colonel Cuesta, there I found a letter which he had received the night before sent by my friend Casanove through one of his friends that came on here, by the said letter I am very sorry to inform you of the Deacease of my friend on Saturday about one o'clock—in that letter which was written on his Death Bed he informs me that he has left the money which I wrote to him about in the hands of his partner and at my orders, he has also left his will and the most particular part of his affaires to my charges.

In Consequence of this unforeseen accident, I am obliged to send our dear little Lucretia Home again, and it is very painfull to me to be obliged to send her back again, as I had prided myself on having the pleasure of presenting her to my friend but God has willed it otherwise, I have also taken into consideration (*consideration*) that, I will perhaps have to make a longer stay at Baltimore than I expect not knowing any person in that place that could take such care of her as her mother I determined (*determined*) to send her home again.

My Dear wife Consider my Situation since my arrival in this City the first news I get is the Death of my friend then I am obliged to be separated from you. This separation I much fear if the Lord does not aid me in my misfortunes that it will lead me to the grave.

* The Compiler has thought it advisable to adopt an arrangement of this part of the correspondence, somewhat different from that pursued in the course of the trial. The letters of Mrs. Chapman to Mina were prov'd by Mr. Blayney, and read by Mr. Ross, immediately after Mrs. Smith's testimony: the letters of Mina to Mrs. Chapman were prov'd by Mr. Field, and read by Mr. Reed towards the close of the evidence for the prosecution. The reasons of the learned counsel for this course, undoubtedly proper for their purpose, cannot extend to this publication. The letters of both parties, therefore, are here introduced chronologically; so that they are presented to the reader in their true connexion.

But I pray that he will sustain in all my troubles and allow me to Return into those kind and endearing loving arms of thine Oh! my Dear wife how is it possible that Lino could survive the loss of one so loving and so dear to his bosom should he meet with the misfortune of losing you.

Never I can I forget during this life the Repeated Kindness and favors wch I have Received at your hands as a Beloved wife.

I whould first see the sun stop its Carrier through this wide world, and be plunged in the most green or blackest gulphs that demons could invent, than have it said that I should Repay you with ingratitude.

Oh! angel of my life my return to your embraces will give you proofs of my fondness for you Embrace our dear sister for me and those Innocent Little Creatures whom I believe love me Dearly, My Dear I have not been able to send up the Mexican Ministers servant as he has been sent by his master to Baltimore with a letter on hearing the Death of my friend Casanova, which has Deprived me of the pleasure of sending you up all that you wanted, but on his Return as I will see him in Baltimore he will go up Immediately I have not sold the Dearborn and Horse yet but I have left them in Care of a friend until my Return without incurring any expenses whatever.

I hope you and all the family will enjoy good health I Remain your invariable and constant faithful Beloved Husband

LINO AMALIO ESPOSIMINA.

By the Secratery's aid of His Excellence Torrel minister to the government of Mexico.*

(Not endorsed.)

No. IX.

Andalusia, July 20th, 1831.

More than an hour has passed away since I retired to my writing desk, in that part of my now SOLITARY parlour, where I have passed so many happy hours with my kind, my sincerely beloved Lino: I have been poring over your truly affectionate letter of the 18th inst. the tears of sympathy have copiously flowed from my eyes; yes, my dear husband, most sincerely do I participate with you in all your troubles: and am ready to exclaim with the poet,

'How unsubstantial is this earthly state!
'How fickle every sublunary joy:
'One hour exulting midst the flowers we rove:
'The next desponding tread on prickly thorns.'

Oh! cruel fate! thus to have deprived my dear of the pleasure of embracing his friend before his dissolution. Dear Lino! what a series of misfortunes and disappointments await you! Your Lucretia seems almost to fear they will never cease, but with your existance. God forbid that it should be so. But what cares you are now involved in! and yet so young! the responsibility of a husband! and the duties of a father to perform! You inform me that your friend has left his will and the most particular part of his affairs to your charge, which I hope will not detain you a very LONG TIME from your Lucretia, and the "Innocent little creatures whom I do sincerely believe love you dearly." Our little daughter Lucretia bore the disappointment of not going with you better than I should have thought; she was full of expressions of sympathy and pity for you on account of your losing your friend. Our dear little John comes to me and I tell him to give me a kiss to send to you which he does very readily; at the same time he asks me to give him one for you likewise.

The children are all in good health, and very often speak of you. Sister Green very much admired your very interesting, tho' melancholy letter, which I took the liberty of reading to her and our daughter Mary; they both unite with me in love to you. Dear, sweet little Abby Anne kisses me very fondly for you, and that too many times in the day, she loves you very much, tho' she is very modest and bashful in acknowledging it in your presence. She has this moment sealed twenty-seven kisses

* None of the letters from Mina to Mrs. Chapman, excepting the signatures, are in the proper writing of that individual. It is only in the Spanish documents that his autograph appears.

upon my lips, and wishes me to send them to you, but says to me, dont tell any body.—It is now evening and William and Fran(cis) have been to the post office, but no letter from you; which gives me much uneasiness, fearing my dearest Lino is ill, and not able to write; if I receive no letter to-morrow, I shall be driven to despair. If I had money by me, I should be almost tempted to follow you to Baltimore immediately, very well knowing the delicate state of health you are in, and how inadequate you are to bear grief or trouble at this present time.

Oh! my dear husband, how anxiously do I desire that you may enjoy health, and be able to accomplish the business, which is entrusted to you, very quick. I am almost tempted to use your own familiar expression, and say, "make haste, make haste," my fond Companion, and return to your more fond Lucretia who is very lonesome and melancholly at heart without her most dearly beloved husband at home; indeed the whole house is dull without you; the doors themselves, seem to move on their hinges with melancholly; and even Mary H. has been seen by me to cry several times since you are away. I told her yesterday morning that I should write and tell you that she was crying because that John, (her beloved,) had left her, this made her laugh through her tears, because I spoke of *you*; we all sincerely mourn your absence.

Mary H. has promised to arise with me to-morrow morning at about 3 o'clock to give this letter to the mail-stage-driver, that you may receive it the next day: And oh! my dear, do write very often as you promised you would, as I shall be very impatient.

My heart is most sincerely and affectionately devoted to you, my beloved Husband. Adieu.

"Thy name shall be to memory dear,
"While sweet affection claims a dwelling here."

Again, I have the honour and pleasure of attaching my first name to that of your last name.

LUCRETIA ESPOSIMINA.

(*Along the edge, at the top, is written:—*) Those stars represent Abby Ann's kisses, sent to you, my dear, all given to me without stoping. * * * * *

ENDORSED, *Adjnt. Lino A. Esposimina, Baltimore.*

No. X.

Balt—July 19th 1831, Tuesday evening.

MY DEAR LUCRECIA

I embarked on board of the steamboat this morning from Philada. for Baltimore where I arrived in safety. In the deepest affliction for the loss of my friend and feeling most sensibly our separation I hope the Supreme Being will soon restore me to your society. My intention is to proceed to the country to morrow afternoon, to arrange the affairs of my friend and on Saturday morning at 4 o'clock I shall be with you at home, for my melancholy will not allow me to bear the pain of your absence longer, and I have come to the determination of never absenting myself from you any more as I find your presence so necessary to my happiness, that to be without you, even for a short period is insupportable to me. Besides I am tired of Baltimore already, and am not all pleased with the city, having treated myself for the present in a boarding house which I utterly dislike. To morrow I am to receive the money which my friend has left for me, amounting to about 45,000\$

Embrace your sister and our children for me, and kiss them for me—and believe me to be your constant and ever-loving Husband

LINO AMALIO ESPOSIMINA.

ENDORSED, *Mrs. Lucretia Chapman, Andalusia, Bucks County Penna.*

No. XI.

Baltimore—

Translation from the lips of Señor Lino Amalio Esposimina.

MY BELOVED LUCRETIA

Immediately upon my arrival in Baltimore I proceeded to transact the business of my journey. I presented to the authorities the letters which I had and also the Testament of my friend; I was so unfortunate as to find that I could not, consistently

with the law be allowed to take possession of the property. In consequence of this I immediately set out for Washington to present myself to his excellency the President for the purpose of asking assistance at his hands, and I am happy to say that he has given me hopes of obtaining possession of my friend's goods. But I find it necessary to delay here some time, for my health is bad; Nevertheless, my dearest Lucretia, believe me that I shall fly with the utmost celerity to fold you in my arms, and to manifest to you the depths of distress into which I have been thrown by absence from you. Think not that I have forgotten you because I have delayed for some moments, to write to you. Think not that it was the result of any diminution of affection, no, the reason was that I could not meet with a translator. But my dearest Lucretia, I am sure that you know my sentiments & that your kind heart will suggest an excuse for apparent neglect, & that you will believe that it is my desire to remedy it.

When I left Baltimore I really thought that I should lose my senses. My soul poured forth showers of tears. I looked upon the sky that stretched itself over Pennsylvania, & I re-echoed in my heart the sweet name of Lucretia Esposimina. The green fields, the verdant forests, the sweetly singing birds, every thing softened my heart to thoughts of love & I shed tears in torrents. Dear Lucrecia, there is neither day nor night of pleasure for me when away from you. I neither eat, drink, or sleep. All is melancholy in my soul. I fear that I shall be hurried to the grave ere I see you & fold you in one long embrace.

But no, no, dear Lucretia, I can never forget my beloved children. John remembers much of me you say in your last letter. Kiss the sweet Abiana in secret, that none may see you. From all you say in your letter of the 20th July I have shed many tears—but I live in the hope of speedily being made happy by your affectionate embraces. Embrace my children for me with all the tenderness of a devoted father—give much love to our dear sister Mrs. Green. Embrace her for me with much affection.

All the family of Col. Cuesta have been offended with me because they have discovered our secret by means of the New York Gazette or the Consul of Virginia. But with you for my portion I defy the hatred of the world—for none has done for me what you have. I am noble—I cannot so far forget my nobility as to be ungrateful to you. I know the torments which you feel for my absence, dearest Lucretia, but I know also that for me there is not one spark of happiness when from you. Yet I hope soon to set at rest the misery and inquietude of your breast. My children I never for a moment forget. I have for each of them a rare present. Give to Abian in secret eight thousand three hundred kisses—to little John & the rest an equal portion & for you—receive the heart of your most faithful and invariable friend, husband and brother and devoted slave.

(No signature.)

The translator of the above cannot close his duties without expressing the hope of one day beholding a lady capable of inspiring such ardent affection as that betrayed by the foregoing letter—indeed he almost regrets having undertaken so dangerous a task, he fears that he has already received by contagion the passion expressed by the writer of this letter. He mentions this in hopes that the lady will find in it an excuse for the tremulous motion of his hand in writing the translation. He is the lady's slave.

Para la Señorita
LUCRETIA ESPOSIMINA.

City of Washington, Pennsylvania Avenue, July 25th, 1831.

ENDORSED, Mrs. Lucretia Chapman, Bucks Co. Pennsylvania.

No. XII.

City of Washington 26th of July 1831.

(Translation from the words of Señor Lino Amalio Espos y Mina.)

MY DEAR LUCRETIA

It is impossible to resist the burning volcano which is enkindled in my breast, which encreases with my miserable absence from you. The profound grief of my soul finds a vent in the silence of the night, in the most heartrending cries, at each

moment invoking the cherished name of Lucretia. Oh! cruel absence, which thus rends asunder two hearts united in the sacred ties of conjugal and fraternal affection. Oh! my Lucretia I knew not half the love with which my heart yearns toward you, until this absence. I have now been satisfied by cruel experience that it is impossible to live disunited with you. My imagination continually finds itself fixed upon you. There is not a moment of rest for me. And more, when I remember the devoted affection of your heart I scarcely survive.

I have indeed now, double cause of love for you, since you have neither father nor mother, nor sister nor brother, nor husband except me, in this land of strangers. As often as I remember your caresses my heart is afflicted. The sun is darkened my eyes. My blood is frozen with the most withering ice, and my eyes pour forth at every moment the most soul shed tears. Oh! my dear Lucretia! my loved companion, how shall I possibly exist, if I do not speedily enfold you in my arms. Trust me I shall soon be reunited to you, if heaven should permit me to recover from some little indisposition which I have at present from the waters I drank here. The lady of the house has been kind to me in alleviating my illness. At present I cannot continue my journey; but as soon as I can possibly move off, I shall hasten to throw myself at the feet of my beloved consort.

Oh! my angel, I can never shut out from my heart our dear children—the thoughts of them continually causes me to be dissolved in tears. Kiss them and embrace them over and over for me. As to our affectionate sister Mrs. Green, give the kindest proofs of my affection in your power, and do you confide in the invariable heart of your devoted friend, brother, husband and companion [ad libitum—the translator could not here follow the epithets of the Señor.]

LINO AMALIO ESPOSIMINA.

P. S. My dear Lucretia, I recollect after I had closed my other letter (as also the translation of—[several words are here erased]) that I had neglected to subscribe my name.

ENDORSED, *Mrs. Lucresa Chapman, Post-Office, Bucks County, Pa.**

No. XIII.

Washington City, July 27th, 1831.

(Literal Translation from Señor Espos y Mina.)

MY DEAR LUCRETIA,

My increased affection makes me again take my pen, to inform you of my situation. Oh! cruel fortune! Who would believe my dear Lucretia, that one possessed of so much riches, should find himself surrounded by such miserable poverty? My misfortunes have no end, my disappointments at every step, persecute me. Surrounded by distress, by pains, by poverty, and by melancholy, what is to become of me, my dear Lucretia? I will bury myself in a profound silence, which will be suited to my unhappy soul. Oh! what misfortunes, so irremediable, what absence, so rigorous, from a beloved father, from cherished wife and a fond sister! The martyrdom of Toledo was nothing when compared to mine! How shall I find consolation to sustain my life, dearest Lucretia? Picture to thyself, my love, thy companion in a strange city, without money and without friends! But all will be happiness for me, if I can again press you to my heart. Oh! my Lucretia, the groans of my heart are re-echoed in the neighbouring fields and mountains of the city!—And the only consolation which I meet with here is that which is ministered to me by a young gentleman of this city (of nineteen years) and his amiable mother, Mrs. _____. Consider my angel, that I am more than crazy!—without having the means of rejoining you in the State of Pennsylvania to fold you again in my arms. I shall however, most speedily, when I am enabled to do so, return to your embraces. Oh! my dear Lucretia! my pain is insupportable—my grief is fast hurrying me to the grave, and my eyes continually shed tears, when I consider that thou art the only companion I have in this strange land. But as soon as Heaven permits me, I will hasten to your tender caresses.

* This endorsement appears to be in the handwriting of Mina.

Embrace our dear sister Mrs. Green! and those innocent children of ours, and receive the heart of thy brother, thy husband, thy friend and thy invariable, who longs to see thee.

LINO AMALIO ESPOSYMINA.

ENDORSED, *Mrs. Lucretia Chapman, Bucks Co. Pennsylvania.*

No. XIV.

Washington City, July 28th, 1831.

(Translation.)

MY BELOVED LUCRETIA,

There is no consolation for a miserable unfortunate like myself, but to communicate his distresses to his amiable companion. It seems to me, dear Lucretia, that Heaven could not prepare for me greater miseries than have already befallen me. Now I have no more consolation than to hurry myself to your society, as a remedy for all evil. Think not that thy beloved companion forgets thee for a single moment. No—at every instant I feel you in my heart—as often as I remember you I bathe myself in floods of tears. I am dying of grief—the very warbling of the birds, is to me a sound of lament—the sun afflicts me with his rays—the moon herself and all the bright stars present to me no other idea than that of my dearest Lucretia. But now, my beloved, what most torments is the worst of evils—not having received a letter from you for so many days. How hast thou forgotten thy once beloved companion! You have added fresh torment by your neglect to write to me—if you do this to murder me, I suffer for you and I suffer willingly all the misery you can heap upon me. My dear Lucretia, yesterday at eight o'clock of the evening, I walked the third time to visit the President of the United States, in company with a Duke of England—I promised speedily to present to him, my beloved Lucretia, he has expressed great desire to see you. Mrs. ——, a friend of mine here, as also her son, are very anxious to become acquainted with you.

Remember me affectionately to all our beloved family, and receive the heart of thy devoted companion who desires to see thee again.

LINO AMALIO ESPOSYMINA.

ENDORSED, *To Mrs. Lucretia Chapman, post office, Bucks County, Pennsylvania.*

No. XV.

Andalusia, July 31st, 1831.
Sunday afternoon.

LINO,—Your letters of the 19th and 28th inst. are both now before me, both of which, together with yours of the 18th, have been carefully perused and reperused by me this day. Your letter of the 19th written at Baltimore on Tuesday evening was not received by me until Friday following; when my anxiety was so great for you, fearing you were sick, that I arose, and though I was without a cent of money in my house, (in consequence of having bestowed my all on you,) at 3 o'clock in the morning, and took a seat in the mail coach, with an intention of following you to Baltimore, if I did not find a letter from you in the City; but what was my astonishment, Lino, when I called at the house of your Consul and was told that you had not been there for a long time, that they had heard nothing of your friend's death, and that your Consul with his sisters had gone to the falls of Niagara, instead of being at New Orleans, as you had informed me your Consul and Minister both were; I then made enquiry at the United States' Hotel, and at Mr. Le Brun's, and then I called on Mr. Watkinson, who told me that your Consul had inform'd him that he believed you to be an IMPOSTER!! I was thunderstruck at this information; and told Mr. Watkinson that I could not believe you were capable of so much *Ingratitude*, as not to return to reward me, who had ever been a sincere friend to you; the truth of this assertion I believe you cannot doubt; when you reflect but for a moment that when you were destitute, I took pity on you, and gave you a home, fed you, clothed you, and nursed you when you were sick, &c. &c. If I have been sincere, why has Lino been induced to practice so much *deception* on Lucretia? Why not keep your appointment and return to me the same week you left, on Saturday at 4 o'clock, as you promised?—But too well you knew your own guilt!! You never intended to return to me: I thank you, Lino, and I thank my

God, for having returned my dear innocent child Lucretia to me in safety; for as you have been permitted to practise so extensive a robbery on me, I feel thankful that my children are spared to me; and perhaps may yet prove a blessing to me; tho' you, Lino, are the cause of my enduring much misery at this present time; yes, my heart is pained with the crimes you have committed; think, Lino, (and if your heart is not of adamant,) I believe if you reflect but for a moment on the cruelties you have practised on me and on my dear daughter Mary, your heart will bleed with mine! I have now *no husband* to aid me in supplying the wants of my dear Innocents. Ah! Lino! do not extend your cruelties so far as to deprive me of every thing which might be sold to aid in supplying my dear children with food and clothing! Tell me in your next letter where I may find my horse and Dearborn, if you really have not sold them, but "have left them with a friend till you return;" as you informed me in your first letter; but if you have sold my horse and carriage, gold and silver watches, breast-pins, finger-rings, medals, musical box, silver bells with whistle and cake basket &c. &c. and do not intend to send me any money as you promised to do, to relieve my distress, or need of money, I say, if you do not intend I shall ever possess any of the property you have deprived me of, than (*then*) I must tell you that I wish you would *never write to me again*, and do not request others with whom you correspond, to direct their letters to you here, and to my care, as you will find I have forwarded one to you by enclosing it in this of mine. But as you have forsaken me, do not torment me by sending *any more* of your letters, filled as they are with *fair words* and *pretended affection*. By this time I suppose my rings decorate the fingers of one, whom, *perhaps you do love* sincerely; and the worst wish that Lucretia sends after you, is, that you *may be happy*. You say in your last letter that "as often as you remember me, you bathe yourself in floods of tears" and that "you are dying of grief" &c. I cannot think you indulge in grief if you are in possession of the \$45,000 which you wrote me you expected to receive; and then you visit the President frequently, and have the honour of walking with a Duke of England; all this must surely make you happy, without your sending even a wish or a thought after me!! And then, I observe you speak of a female friend — —, who, perhaps, now receives your fondest caresses, and perhaps renders you perfectly happy. But no, Lino, when I pause for a moment, I am constrained to acknowledge that I do not believe that God will permit either *you or me* to be happy this side of the grave. I now bid you a long farewell.

LUCRETIA.

(*Along the edge of the first page:*) Mrs. Palethworp very much surprised me with the intelligence which she gave me of your visiting her &c. while I was at New York.

(*Along the third page:*) Jacob the waiter boy called at my house day before yesterday, the news he told me did not correspond with what I had heard from you.

(*On the outer page:*) How is it possible that Lino can be happy? when he has taken so much pains to render his best of friends completely miserable. I think if you saw me wringing my hands and crying as I do every day your heart would really ache likewise! but you are with your friends, and I presume taking pleasure. Farewell, a long farewell.

ENDORSED: *Dn. Lino A. Esposimina, Washington City.*

Enclosed in the above letter, was the following bill.

Mr. Amalio

1831.

July 8 to 9,

Board for self and 2 Ladies, - - - \$ 3 00

Use of a private parlour, - - - 1 00

To B. Renshaw,

\$ 4 00

Rec'd payment per W.M. RHOADS.

(*Underneath, written by Mrs. Chapman:*) I find you have no want for a plenty of ladies if you only have a plenty of money. Adieu. LUCRETIA.

(*On the outside:*) This you left instead of a dagger to pierce me to the heart. You told me that when you staid all night in town you were at the Minister's apartments

without expense, and that the Minister's daughter and the Consul's sister were your company; this bill gives me a different opinion; however, I will not reprove you, Lino, do what you think will make you happy. Adieu.

LUCRETIA.

I wish you would observe God's commands.

JOSEPH M'ILVAINE, Esq. Recorder of Philadelphia, seventeenth witness for prosecution, sworn.

In the latter end of August last, between the 20th and 25th, it chanced that in the absence of the Mayor, the direction of police of the City fell upon me. Mr. Blayney placed in my hands the letter of 31st July, 1831, which he had received from Washington, as a part of the evidence that Lino was an impostor. I thought that the conduct of Lino ought to be inquired into; and accordingly went, on the 28th or 29th of August, to the neighbourhood of Mrs. Chapman's residence, taking with me Mr. Blayney and Mr. Reeside. We went together to her house, where we waited until her return from church. I then requested to have a conversation with her in a private parlour.—I introduced the subject by saying that I had understood that a person, calling himself Mina, had spent some time in her house; that I had in my possession very satisfactory evidence that he was a swindler and an impostor; that it had become my duty to exert myself to have him arrested; and that I also had reason to believe that she had suffered from his impositions. I told her I would be obliged by such information as she could afford me as to what he had done. She said, she could not believe that he was an impostor—that he had represented, and she had believed, that he was the son of a distinguished Mexican, and began to tell me how he had come to the house; I changed the subject, as I was seeking for other matters, and asked her if he had not to a considerable extent injured her or plundered her of her property? She said, No—pretty promptly. Having in my possession the letter last read to the jury, naming various articles, I asked her if he had not taken from her a horse and wagon. She said that he had taken the horse and wagon, but that his excuse was that he had left them at a house in Twelfth street. I then mentioned the spoons to her. She then gave me the same account of them as that related by Mrs. Smith. I named all the articles, and she admitted that he had carried them away. About this time Mrs. Green came in and took a seat. I then said to Mrs. C. that I had it in my power to convince her that this man was an impostor. I asked her if she knew what money he had when he left Bucks to go to Baltimore. She said, about fifteen dollars. I asked her if it was possible he could have had \$500 of the notes of the Farmers' Bank of Bucks County. She said, it was impossible he could have had it. I told her I had his advertisement of having lost that sum in notes upon that bank, and that he had used that advertisement for the purpose of defrauding several persons in Washington, and it was therefore my duty to see that he was arrested. I then asked her if she could not tell me where he had gone when he left her house last. She said he had been gone from her house two or three days. She and Mrs. Green both said, he had only told them he was going to the north.

I think the next subject of conversation was introduced in this way: I said that, from my knowledge of the character of this man, who had been entertained in her house; and of the lower classes of the nation to which he belonged—and from the information I had received of the circumstances attending the death of Mr. Chapman, and the motives I could conceive a man like him might have to plunder a woman like her, I had a very strong impression that Mr. Chapman had died by poison, and that Lino had administered it to him.—There was a very marked effect on her countenance when I mentioned this; as much as I had ever witnessed.—I then asked her if nothing had occurred within her observation to make her suspect the same thing that I suspected, or to strengthen the impression I had communicated. There was a very decided pause, occasioned by the feeling which the question had produced. I could see that she made a great effort to recover, and she succeeded. She answered, No—she had seen nothing of the kind—that Lino had been Mr. Chapman's kind nurse during his illness, and had given him a great part of the medicine he took. She then instantly told me of the great attachment Mr. Chapman felt to this man; and said, she could produce me letters that would establish that point. I think I waived seeing the letters at that moment, and put a

question which led her to speak partially of the symptoms which attended her husband's death. She said, that he and she were talking together by themselves, when he complained of violent pain. He asked for a small quantity of brandy, which she gave him; he seemed to be relieved till bed-time, and went to bed and slept soundly; he awoke in the night, sick, and she arose to get the peppermint, but could not find it. From that time he was exceedingly ill, and had symptoms of cholera morbus all night; and Dr. Phillips came the following morning. I do not think she went into more details, except as to the visits of Drs. Phillips and Knight. She said that these symptoms of cholera morbus continued until his death. She returned to the point from which I had diverted her, as to the reception of Lino into the house. She seemed desirous to convince me that the attentions paid him, were with the entire approbation of Mr. Chapman. She produced the copies of letters from Mr. C. to the father of Mina. She told me also of a conversation that she and Mr. Chapman had had, a day or two after Mina's arrival there; at which they talked the whole subject over, and had come to the conclusion that the reception of Mina into their house had been a fortunate event for them in a pecuniary point of view, while at the same time it had enabled them to do an act of kindness to a friendless man. I brought her back to the fact that this man was an impostor: I again mentioned something of the business at Washington. She then expressed surprise that he (Mina) had been so much of his time in Washington. She said she supposed from his account, that during his absence he had been to New Orleans and back. I remarked that if she would consider the time of his absence, which it was admitted had not been more than between two and three weeks, she would find it was impossible he could have been half way there and back. She said, that when he had returned and told her he had been to New Orleans, she had made the same remark; to which he replied he had gone all the way on a rail-road, and had travelled night and day at the rate of 30 miles an hour. I told her there was no rail-road to New Orleans, and that this was a palpable deception. I then urged her to inform me where he was; as I had proved to her that he was a swindler, and said it was her duty to give me that information. She denied any knowledge further than that he had gone to the north. I left her with the assurance that if it was possible by any effort of the police, this man should be taken and punished for his crimes. The effect of this interview was to leave a mystery upon my mind, and I determined to be quiet—to create no disturbance in Bucks, but to arrest this man if possible and then communicate to the authorities of Bucks what information I should obtain. I learned that he would be in Boston on a particular day, and I took means to have him arrested.

On the 10th of September Mrs. Chapman came to my house. I had an interview that morning with Mr. Campbell, her counsel, and had told him that I had reason to believe that Mina was then in custody in Boston. Between twelve and one o'clock Mrs. C. came to my house. She referred to the interview I had had with Mr. Campbell in the morning, and said she had come to have a conversation with me on the subject of her situation. I repeated to her that Mina was in custody, and told her I had learned from Mr. Campbell that morning, that she had been married to Mina on the 5th July. She said she had come by Mr. Campbell's advice to inform me how far she had been deceived and injured by Mina, and that her object was that I should advise her what she should do to protect her and her character from the consequences. I told her it would be very difficult to give her advice—that her conduct had been imprudent, and that it was gross infatuation to have taken the course she had; that I could not promise that any step she could take, could relieve her from the consequences. That there was but one possible course that could do her any good, which was to convince the public that she had been, throughout this business, the victim of deception, and that she ought to show her sincerity by giving me all the means in her power to bring him to justice; that if she chose to be candid in her communications to me, I would do all I could, consistently with my duty, to save her feelings, and rescue her from the consequences, particularly her character, which was involved in these proceedings. She assented to this course, and I proceeded to examine her as to all the details. All conversations that I held with Mrs. Chapman upon this assurance, I hold to be strictly confidential, and I am not at liberty to give a single word she then said. It is proper I should say, that from the moment she occupied that confidential position towards me, I purposely abstained from putting to her a single question relating to the death of Mr. Chapman, which I thought could

involve her. Whatever was said, was her voluntary communication. I confined myself to the frauds of Mina upon her.

Mr. Brown, (after conferring with the prisoner.) We waive all objections, sir.

Mr. M'Ilvaine continued. Our conversation that day was not a very long one. The first thing she did was to produce a letter she had received from Lino, dated at Brewster, Massachusetts, enclosing a draught on a man named Bitonia, which she said was a fictitious name, or at least, that the draught was of no value. Upon the receipt of this, she said, she had become satisfied of the truth of my assurance to her that he was an impostor; that she had come to town in consequence, and that among the first things, she had learned the history of her horse and wagon, which he had sold. I assured her that the draught was fictitious. I then inquired whether he had palmed upon her any document or paper. She produced several papers for me to look at. The first was a certificate from the Minister of Mexico resident at Washington, certifying that Lino and Mrs. Chapman were lawfully man and wife. The moment I cast my eye upon it I said, "That is in Lino's hand-writing, and that seal is a forgery." The name and titles of the minister were printed at the head of the certificate. She said she knew it was in his hand-writing, but he (Mina) had explained to her how it came to be so—that he had written to the minister for a certificate of this kind—the Minister had answered that his secretary was absent and he was too busy to write it himself, but that such was his confidence in him (Mina) that he sent him a certificate, signed, which he might fill up for himself. I told her she must give me that paper, as it would enable me to detain him on a charge of forgery committed in Pennsylvania. I asked her for what purpose this paper was obtained—she said she had repeatedly told him, after they were married, that as his health was infirm, in case of accident or death to him, she would have no means of claiming her rights—that after repeated promises he finally produced this certificate. She expressed great anxiety to obtain a divorce from Mina, and asked my opinion on that subject. I said, I could give no opinion. This was all that passed. She got up to go, and left on my table the papers referred to—went towards the door, and came back, put her hand on the papers, and asked whether these communications and the leaving of these papers might not bring her into trouble? I told her she had thrown herself voluntarily upon me, and I had pledged myself to her; I had nothing to add—and it was still for her to decide whether the papers should be left or not. She reflected a minute—seemed agitated—and finally said, she would leave them. She then left me, intending to go in the stage.

About 8 or 9 o'clock that evening she came again to my house, as she said she was too late for the stage. She introduced the conversation by asking my opinion on two points of law—one as to the validity of a deed she had in her possession, and the other as to administering to the estate of her husband. I told her I could not be considered as her counsel, but I would give her a word of friendly advice, which was to omit no formality but to administer herself. She was averse to this course—I told her she must do as she pleased, I would not be considered as her counsel. She gave me a great number of details in relation to Mina, much of which has been related by other witnesses. She gave me the story of the ladies at the United States Hotel, as related by Mrs. Smith, with some additions which make it still more improbable; such as, that, from the arcade they went to the Chesnut street theatre, from thence in a carriage to the U. S. hotel. I told her it was singular she should have been deceived by such a statement. She said, his excuse for the ladies not going home, was, that their clothes had got wet in the shower, and that he had been up all that night with the servants of the hotel drying their clothes in order that they might go home the next morning. She told me further, that after their marriage (Mina and herself) he had taken her to an apartment in the U. S. hotel which he called the Minister's room. (The ladies alluded to were alleged to be those mentioned in the bill, and note of Mrs. Chapman annexed.) This conversation took place on the evening of the tenth of September. On the following Monday I received information of the arrest of Mina in Boston. I immediately forwarded an affidavit of the charge of forging the certificate, and wrote the same day to Mr. Ross to come to Philadelphia and receive the case into his hands. So far all was kept secret. As soon as I had heard of Mina's arrest I wrote to Mrs. Chapman.

On the Saturday, when Mr. Ross came, I was called into the entry, and found Mrs. Chapman there. I got Mr. Ross as quietly as I could, out of the house, and asked Mrs. C., with those who accompanied her, into my office. On that evening

the first publication upon the subject in Philadelphia was made, in the National Gazette, copied from a New York paper. Mr. C. came in with her sister, Mrs. Green, Captain Baker, and her niece, Mrs. Baker. She said she had brought those persons for the purpose of giving further evidence of the frauds of Mina. Capt. and Mrs. Baker then informed me that they had just arrived from Cape Cod—that they had come on at the recommendation of Mina for the purpose of visiting their aunt—that Mina had been at Cape Cod with letters furnished by Mrs. Chapman, to her friends there;—that her friends had received him with open arms:—that he had made himself very agreeable—had communicated to them his great wealth, and the immense benefits he had conferred, and still intended to confer, on her—that he had represented, that he had \$1,500,000 a year from his gold mines ;—that he had furnished Mrs. Chapman with six or ten thousand dollars in gold, with which she had erected the most elegant house in all that section of the country;—that he intended when he received remittances, to erect a palace on the bank of the river ;—that he had recommended all her relations to come on and visit her ;—that he had offered to them some situations on a farm adjoining that of Mrs. Chapman, which he was going to work with slaves brought from Mexico; that to one in particular he offered the place of overseer. It was also mentioned that he had paid, while there, very particular attention to a niece of Mrs. Chapman's, and that this young lady had followed him to Boston with a view to marry him. I was able to show, by the date of the arrest, that the young lady had escaped by about 24 hours. It was also mentioned that while at Cape Cod he had lost his pocket book, containing a large sum of money. After I had heard all they had to say, I entered again into conversation with Mrs. Chapman. I asked her what were the motives which induced her to pay such extraordinary attention to a stranger? Her answer was, that they believed him to be a man of great wealth, that he promised them very large sums of money, and that they expected to derive great benefit from him.—In one of these interviews she produced me two papers in Spanish, which she said were written at a time when he was sick at her house, and when it was apprehended his life might be in danger.

(Papers produced.)

No. XVI.

This paper endorsed in Mrs. Chapman's writing "Don Lino's Will."

15,00000 pesos. Conste por lapes cente como llo Lino Amilio Esposimina promi untima voluntad dejó a favor de Dn. Lucrezia Chapman la cantidad de quince mil pesos por aver asistido con particular asistencia antes de mi muerte cullo seran entregado en la Ciudad Mexico y por qe coste doi la precente en Philadelphie: a 28 de Mayo 1831.

[Seal.]

ESPOSIMINA

[Written in margin] Bale por qinze mil pesos.

[Endorsed in Mrs. Chapman's writing] Dn. Lino's Will.

LINO AMALIO ESPOSIMINA

TRANSLATION.

15,00000 dollars. Be it known by these presents that I, Lino Amilio Esposimina as my last will, leave to Mrs. Lucretia Chapman the sum of Fifteen thousand dollars for having assisted me with particular attention before my death, which sum will be paid in the city of Mexico. In witness whereof I execute this at Philadelphia, May 28, 1831.

LINO AMALIO ESPOSIMINA

[Seal, &c.]

[Margin] This is worth \$15000.

These were executed in order that if he should die, they should be remunerated for their kindnesses. I remarked to her that it was very extraordinary that they should be deceived, when in the body of the order \$15,000 is named, and in the margin, in figures \$1,500,000.—During all the interviews I was particular not to say any thing to her that might lead her to speak of the death of her husband. I kept the murder of Mr. Chapman out of view from the time she first came to town. In all these interviews she evinced a strong desire to be separated from Mina. When I told her that these frauds must be the foundation of her divorce from Mina, she seemed anxious that they should be investigated. This interview of the 17th Sep-

tember was the last that I had with Mrs. Chapman. The publication spoken of in the National Gazette of that day, alluded to her.

The next morning Mr. Ross came to me and I delivered the papers to him, and gave him a statement of the case. Since that time I have taken no part in it.

Cross-examined by Mr. Brown.

On one occasion she told me, that when Lino was urging her to marry him, he said it was her husband's dying wish. Mrs. Chapman said that had operated with her.

The letter of July 31st was enclosed to the High Constable of Philadelphia, in a letter from Mr. T——, in Washington city, which stated that Mina had swindled him. It was taken out of the post office by Mr. T——. When sent to Philadelphia it had been opened. I did not know of the marriage when I perused that letter. Mrs. Chapman did not know that I was possessed of it.

By the Court. Whilst I was telling her of the probability of Mina having poisoned her husband, her countenance became livid; there was a great heaving of the bosom; I thought she would lose herself under the agitation. She did, however, after a considerable pause, recover her self-command, and gave me the answer, "No—I have seen nothing of the sort—Mr. Lino was my husband's kind nurse during his sickness."—I did not think there was an expression or appearance of surprise, as I expected there would have been. I do not say it was fear—it did not look like surprise. I was disappointed at the moment, for I had hoped for such an expression of surprise, and that she would have inquired of me what reason I had for suspecting him. She did not make such inquiry, either then or at any subsequent period. These are my reasons for saying it was not surprise: she leaned upon her arm—did not look me in the face—and from the middle of the sentence, from the time my object became apparent, there was a very striking change of countenance to as livid an expression as I ever saw; accompanied by a convulsive heaving of the bosom, as if by an effort to control feeling, until the sentence was ended, and for a considerable pause after. The interval was such, that I thought she would have sunk under the feeling, whatever it was. She recovered herself, and made the answer. The effect was unsatisfactory to me at the time.—I did not know they were then married. I think she said, she did not think it possible that Lino could do any thing so diabolical.

No. XVII.

Brewster, Sept. 1st, 1831.

MRS. CHAPMAN

Dear Madam—It is with much pleasure I inform you of my arrival at this place, and with your friends, who I am pleased to inform you are in good health. Your recommendation to General Cobb I am very much pleased with, whose House I now reside—I called at your sister's, Mrs. Abigail's this morning who with her family are in good health. Mrs. Baker I will visit to-morrow, as she lives at a distance of six miles from this place. I shall leave this place for Boston in two days, where I shall remain until I hear from you. With the enclosed order I wish you to call on Sn. Dn. Juan Bautista Bitonia at *Phild.* and forward me the amount of the order. To the care of Messrs. Elijah Cobb & Co. Merchants, Boston. I wish you to send the money soon as possible, as I shall stay in that City until I hear from you. If you wish for money for your own use, please draw on the above named gentleman, who will place the same to my ac't. Present my respects to Mrs. Green, your children, and other friend who enquire after me. I remain yours respectfully,

LINO A. ESPOSYMINA.

No. XVIII.

Sn. Dn. Juan Bautista Bitonia

Yo he Livrado auhe (*hoy* ⁹) y contado a fabro de Dn. Lucertia Chapman la cantidad de mil pesos moneda a susatisfacion Boston 1. Septiembre de 1831.

1000. M.

[L. S.]

[L. S.]

LINO A. ESPOZ Y MINA.

[L. S.]

[L. S.]

TRANSLATION.

I have this day drawn in favour of Mrs. L. C. for the sum of \$1000, lawful money, &c. (Dated and signed as above.)

No. XIX.*

Don Tomas Montolla, Coronel de Infanteria i Ministro General de la Republica de Mexico, &c. [Thus far is printed; the rest is in Mina's writing. The seal affixed is a large and distinct one stamped on wafer.] Certifico pro la presente como he Reconosido a Dn. Lino Amilio Espos y mina pro Esposo de Dn. Lucrecia Winslow por habre contraido con la Referida Sn. el susecuento matrimonio——y para que coste doi la presente certificacion en Washinton a 8 de agos de 1831.

MONTOLLA

[MEXICO]

TRANSLATION.

Don Tomas Montolla, Colonel of Infantry, and Minister, &c. of the Republic of Mexico.

I certify by these presents that I have recognised Don Lino A. Esposymina as the lawful husband of Mrs. Lucretia Winslow—he having contracted marriage with the said lady. In witness whereof, &c. [Dated, &c. as above.]

Saturday morning, February 19th.

[Mr. M'Ilvaine finished his testimony this morning, but the adjournment at last evening was omitted to be noticed.]

JOSHUA BARKER, Esq. eighteenth witness for the prosecution, affirmed.

Mrs. Chapman called at my house in company with her brother-in-law Green, on the evening of the 19th September, about dark, and stated that she wished to have something in the form of a Power of Attorney drawn up to authorize her brother to transact business for her in her absence, as she was going away the next morning. At the time I was particularly engaged, and wished to postpone it till the next day; but by her importunities I was induced to do as she wished, and I drew a Power of Attorney, authorizing her brother to do general business, and it was executed. It was

* In addition to the above, the compiler finds among the papers entrusted to his care, the following, which do not appear to have been given in evidence, but are obviously connected with the history, and are therefore introduced here, in a note.—The name and titles of the minister are printed, the rest is written in English; apparently in the same hand as letter No. VIII.

No. XX.

Don Tomas Montolla, Coronel de Infanteria i Ministro General de la Republica de Mexico, &c.

I Certify as Minister of the Minister of the Mexican Republic, that Don Lino Amilio Esposymina is a Native of the city of Mexico, with all the Honours attached to a good Citizen, and that he is the legitimate son of the Commander in cheif of all the Armys of the State of Mexico his Excy. Don Antonio Maria Esposymina and of Doña Maria del Carme Mirones his lawful wedded wife. In witness whereof I have set my hand and Seal of the Republic of Mexico hereunto.

MONTOLLA.

[L. S.]

Translation from the original in Spanish.

No. XXI.

[Bills sent from Washington to the High Constable.]

Washington, July 29th, 1831.

DON LINO AMALIO ESPOS Y MINA,

To	Dr.	
To six days board,		\$6 00
To borrowed money,		20 00
		—
		\$26 00

Washington, July 29th, 1831.

DN. LINO AMALIO ESPOS Y MINA,

To	Dr.	
To 1 Pocket Book,		\$1 50
“ Borrowed money,		20 00
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		21 50

If you should want further proof upon the correctness of these accounts, write me immediately.

signed "Lucretia Chapman." I think I asked her if she was going away for any length of time. Her reply did not indicate that she was. She wished to impress me with the idea that it would be a temporary absence. She said her object was, to take some books to New York for sale.

Cross-examined by Mr. Brown.

I have known Mr. and Mrs. Chapman two or three years—I have been occasionally at their house. I never observed any want of harmony between them. I live about two miles off. I once saw Mina and Mrs. C. in a carriage together near my house—she introduced him to me as a young gentleman from Mexico.

JONATHAN THOMAS, nineteenth witness for prosecution, affirmed.

[This witness having been called to prove the identity of the body which was disinterred, Mr. Brown said, it was admitted that that was the body of Mr. Chapman.

DR. JOHN P. HOPKINSON, twentieth witness for the prosecution, sworn.

I was requested by Mr. Ross to make an examination of the body of William Chapman, and on the 21st day of September, proceeded to do so. The coffin was removed from the grave, and the lid taken off. The odour that escaped from the coffin was not remarkably offensive. Upon the first inspection of the body, the whole of the face was black and putrid, and the linen about it somewhat stained. I cut through the coverings and exposed the abdomen and part of the chest, which were of a pale white appearance. I made two incisions, and exposed the cavity of the abdomen; and was struck with its firmness and resistance. No offensive odour escaped from the abdomen. The stomach appeared externally as if inflamed within, that is, it had a somewhat dark colour. I now requested Dr. Coates to assist me in the examination. We proceeded first to examine the intestines, which we opened in many parts. We were here struck with the absence of any fluid in them. They were very slightly distended, and seemed disposed rather to become dry than to putrefy. With the single exception of a small quantity of bilious-looking matter in the commencement of the large intestine, they were, I believe, totally empty. Their appearance was universally pale, without any marks of inflammation. The whole canal was examined in this general way, with the exception of the terminating portion called the rectum, which was not examined. The liver, and other solid viscera presented no unhealthy appearance; and we proceeded in the next place to remove the stomach; to accomplish which, ligatures were applied, insulating it, including a portion of the commencement of the intestine. We now remarked that in cutting the œsophagus or gullet, that it appeared inflamed. The parts removed were immediately placed in a glass jar, cleansed for the purpose, and it was closed by myself.—We reflected some time whether our examination had been extended sufficiently far; and from the appearance of the stomach externally, it seemed to us that the objects of our examination were accomplished. I carried the jar and its contents to Philadelphia, kept them carefully in my own possession, and on the following morning placed them in the hands of Dr. Mitchell for analysis.

In the presence of Dr. Mitchell, and Mr. Clemson, who was to assist in the analysis, I opened the stomach. The whole surface exposed was covered with a dark brownish coloured mucus. This was scraped off and carefully removed for a separate analysis, and the surface of the stomach exposed. It presented appearances of universal inflammation, at one extremity bounded by the orifice leading into the intestine, extending to the other leading into the œsophagus. I here left the matter with Dr. Mitchell for examination.

In reply to questions put by Commonwealth's counsel.

I am a practitioner of Medicine and Surgery, and am engaged in lecturing on Anatomy in the University of Pennsylvania. I have had very considerable experience in dissections. The peculiarities which particularly struck me (at the examination,) were, the slight degree of putrefaction in the abdominal viscera, and the limited extent of the inflammation from the stomach. To this I will add, that when the stomach was opened, a very peculiar smell, which I immediately compared to that of pickled herring, arose from it. Upon my mentioning this, all present confirmed it.—Both the stomach and intestines, when cut, showed considerable firmness of texture. I was further surprised that so little matter of any kind should be found in the canal or the stomach.—I have examined many hundreds of bodies, and never observed such a smell before.—I never dissected a body of a person who died by arsenic to my knowledge.

In cases of poisoning by arsenic, the inflammation may be confined to the stomach.

A person may die of arsenic, and no trace be found of it in the stomach. Cases of this kind are recorded.—In cases of poisoning by arsenic, inflammation of the intestines is not an invariable symptom. In case of death from local inflammation, the part affected is most liable to putrefaction. Medical opinion is divided, in respect to arsenic being an antiseptic upon a living body. It is used for the purpose of preserving animals, being applied after death. Judging from the appearance of the body, I should attribute the death of Mr. Chapman to inflammation of the stomach. From the symptoms detailed by Drs. Phillips and Knight, and from the appearance of the body, I am disposed to attribute the death of Mr. Chapman to the action of some violent substance on the stomach. Authorities state that inflammation of the rectum, and such discharges as sometimes attend it, are symptoms of poisoning by arsenic.

Cross-examined by Messrs. Brown and M'Call.

I did not examine the rectum.—By a violent substance, (to which I attribute the death of Mr. C.) I mean a substance usually termed poison. Bile would not be considered a violent substance. It produces irritation, but I am not prepared to say that bile would produce inflammation.—It is difficult to describe inflammation—it is impossible to explain it to one who is not a medical man. Irritation is the commencement of inflammation. Irritants are the causes of inflammation. Inflammation certainly exists after death, when caused by natural diseases. Congestion is very different from inflammation.

The gall bladder contained some bile; it was not opened.—The symptoms I heard from the medical witnesses are those of Cholera Morbus.—Putrefaction is hastened or retarded by circumstances. Causes of retarding putrefaction may be, the dryness of the soil—the individual not having died very suddenly—and the absence of any faecal matter in the intestinal canal.—I never before examined a body after so long an interval from the decease. I never before examined a body that had been disinterred.—Absorption may go on after death.—Arsenic will only preserve that with which it is in immediate contact. Applied to an animal internally, after death, it may preserve the whole. The body, except the face, was in a good general state of preservation. The inside of the coffin, and the linen, were dry. The ground in which the coffin was deposited, was a mixture of clay and gravel. From having read of cases of long interment, I would say that the herring smell is not usual. I never heard or read of the herring smell peculiarly belonging to arsenic.

A violent case of the cholera morbus might present the same appearance after death as this body.—Orfila I consider as high authority. It is a general opinion, that the results of cholera morbus and arsenic on the stomach are difficult to distinguish. I should not now consider the examination I made, as sufficient, although when made I did consider it so from the appearance of the stomach. It is considered that the appearances of the body, as to these subjects, are fallacious. The examination of the heart is not as important as that of the stomach, in examining for poison. I was not apprized that Mr. Chapman laboured under a disease of the heart. In so small a quantity of arsenic as would kill a man, I should not suppose the heart would show it. Four or five grains will destroy life.

We were not more than three-quarters of an hour in examining the body, if so much. The discharge of bloody serum spoken of, does not accompany any general disease, but it may accompany a disease of the rectum. In dysentery, blood and serum is discharged. I do not know that blood is discharged in cholera morbus. I have never known a case of cholera morbus to terminate fatally, neither in my own practice, nor in that of the friends I have consulted.

By the Court. Cholera morbus continues from a few hours, to several days. I never had a patient in my care to continue beyond one or two days. Cholera morbus arises from the action of irritating substances in the stomach and bowels. The seat of the disease in this case was solely in the stomach. The inflammation might have been very violent in the rectum without showing it above. I presumed that I had the cause of death in the stomach, and therefore did not make further examination than I have detailed. From the symptoms that preceded his death, I should not have thought it at all necessary to examine for apoplexy. From the symptoms described, and from the post mortem examination, I have no doubt but the disease that caused his death was in the stomach. I locked up the vessel that contained the stomach, while in my care; I carried it myself to Dr. Mitchell. The tendency in the intestines was to dry. I never saw the dryness of the intestines in any body I ever exa-

wained before. I thought at the time, that if there was poison, I had it in the stomach.

[Adjourned till Monday morning.]

Monday Morning, Feb. 20.

DR. REYNELL COATES, twenty-first witness for prosecution, affirmed.

I am a practitioner of medicine. I was present at the disinterment of the body, in the church-yard of All-Saints, on the Bristol turnpike. When the coffin was removed from the ground, it was placed upon the ground, and opened. Dr. Hopkinson proceeded to lay the body bare, previous to examination. He opened the abdomen, and then requested my assistance in the farther examination. The examination proceeded to the abdomen only. I observed previously to the body being opened, that the lid towards the head was indented, apparently by the weight of the earth, and by the action of a slight degree of moisture. The smell of the body was not fetid. The face was the only external part which was presented to view during the examination which exhibited signs of putrefaction. It was very much putrified. The body externally had a clammy feel. When the abdomen was opened, we were surprised at the small quantity of moisture in it. I do not recollect distinctly, the order in which the parts were examined, although I recollect distinctly the examination of each part. The small intestines were opened throughout a large portion of their extent by incisions made in various places. They were almost empty, although there were observed in them two or three small portions of faecal matter, tinged with apparently healthy bile. Those portions of the intestines which came into view, exhibited no signs of disease. I think the whole extent of the small intestines was handled. One considerable incision was made—or perhaps two—into the large intestine. No signs of disease were found here, but there was present a small portion of faeces apparently tinged with healthy bile. The external appearance of the stomach induced us to think that the internal coat was in a state of inflammation. The stomach, together with a portion of intestine, was tied at each extremity and removed from the body. When the oesophagus or gullet was divided, we had the opportunity of seeing a small portion of the internal lining of the gullet close to the stomach. This part was in a very intense state of inflammation. The liver did not possess any marks of disease. The gall-bladder appeared to contain some bile, and had externally a healthy appearance. The spleen was soft, and in a condition not unusual where persons die of diseases of rapid progress. The kidneys appeared to be healthy; they were not dissected. The stomach and that portion of the intestine removed with it, were placed in a clean bottle by Dr. Hopkinson—the coffin was closed, and the body reinterred. These are, I believe, all the facts I know. This examination took place in September.

I forgot to notice, that upon opening the abdomen there was a very peculiar smell. I do not know that I could liken it to any thing precisely. I never perceived it in opening any other body. I have been present at the examination of two bodies, said to have died by arsenic. Both of those cases were prior to my studying medicine. All the appearances in this body were in accordance with a certain class of cases of poisoning by arsenic.

In reply to Questions put by Commonwealth's couns'l.

The bloody serum spoken of by Dr. Phillips, the inflammation of the gullet, and the absence of the inflammation of the intestines, as the question is general, would not be evidence of poison by arsenic. Inflammation of the rectum is one of the symptoms of poisoning by arsenic. A man may die by arsenic, and from vomiting and purging, no trace of it afterwards be found.

In the cholera morbus there are generally some marks of inflammation about the small intestines. From the nature of these there may probably be some marks in the stomach, though probably not very intense. I have heard, however, of cases of cholera, in which the inflammation of the stomach was intense. In natural death, the diseased part is considered most liable to putrefaction—I think it would always be so, unless the death were instantaneous, or nearly so. This answer is applicable to cases of death by accident. In all cases of local inflammation, the diseased part is most liable to putrefaction. Arsenic is not agreed to be an antiseptic even in a dead subject. My own opinion is, that it is an antiseptic.

From what I saw, and from the evidence of Drs. Phillips, Knight and Hopkin-

son, I am of opinion that Mr. Chapman died by the action of some corrosive poison, or irritant poison, probably of an arsenical character.

The ordinary symptoms of disease occasioned by arsenic are as follow: The first marked symptom is some degree of sickness at the stomach, accompanied by an uneasy feeling in that part; there is soon pain in the stomach, accompanied by an acrid feeling in the mouth, being the commencing symptom of inflammation about the mouth and throat; the pain in the stomach rapidly becomes very severe, and sometimes that in the throat also; the patient complains of an intense burning sensation; this burning pain generally soon reaches its height, and continues throughout the case. Vomiting is a very common symptom. The quantity of the first discharges depends on the quantity of the contents of the stomach. When the stomach is evacuated or nearly so, if the vomiting continues, bile is generally thrown up, of a healthy character. After a certain time, if the vomiting still continues, and that time not very long, it sinks into useless and straining efforts to vomit, without bringing up any thing. In some cases of the same class with these, there is no vomiting from the first to the last. At the time when these inflammatory symptoms begin to be severe, there is generally some irritation of the small intestines also. Sometimes this irritation also becomes very severe, and a burning sensation and pain upon pressure are extended to the whole abdomen. Very early in the case the system is found in a state of collapse; all the vital energies are very much depressed. The heart and circulation appear to suffer most. The pulse is found to be small, weak and frequent; in fatal cases it is often entirely imperceptible at the wrist. In fatal cases this collapse frequently continues until death, the system never reacting, and there never being a proper state of fever. The symptoms described as affecting the small intestines, are often wanting in the case. Sometimes all the symptoms intermit in the progress of protracted cases, and reappear upon the second attack. Cramps in the lower extremities are not unfrequently present, and are often severe. Irritation about the rectum is one of the most common symptoms. All the other mucous membranes are affected. The brain and the nerves of sensation and motion are affected sometimes, though seldom. These are the symptoms attending the most numerous cases of poisoning by arsenic.

Cross-examined by Mr. Brown.

I resided in the borough of Bristol at the time of the disinterment. I was not asked to be present by any one; I had heard of it, and considered it a privilege to be present.—I had frequently heard before, that Dr. Phillips had, prior to the suspicion of poison in the case, attributed the death to cholera morbus. I think he told me so himself.—The physician to whom the character of a case is communicated by another, is not, every thing else being equal, as well fitted to judge of it as the physician who saw it.

All the symptoms described by Dr. Phillips that I heard, might attend other diseases. There were none of the symptoms that would necessarily be the effect of arsenic. I should never feel authorized, by any train of symptoms to say, that a man had died by arsenic. I would not feel authorized to say so, from any external appearance of the body, nor from any consistency of it. Beyond these, I observed the external appearance of the stomach, the inflammation of the gullet, and the absence of inflammation in the small intestines. I have both heard and read, and what is better, have observed conclusions proved to be correct, drawn from the external appearance of the stomach. I do not regard such conclusions as absolutely positive, but only very probable.

Three coats are commonly named for the stomach, the mucous, the nervous, and the muscular, which is covered by the peritoneum. I could certainly know better the state of the stomach by seeing it through the peritoneum than I could know the lining of a coat from seeing the cloth outside. The inferences from the appearances in such case could be drawn by a practised eye alone; but such might be drawn. An opinion drawn from such appearances might be ill-founded. The colour of the peritoneum was what I should call a dull ashy greyness, not uniform in all its parts, but approaching to a mottled appearance. I have examined stomachs longer after death than this—none, however, which were not subjected to a peculiar preparation. I have examined stomachs in various periods of decay, at shorter periods after death. I do not think that I ever before examined a stomach taken from a body which had so long been interred. I have been contented to form as strong an opinion as I now have from the external appearance of the stomach. I incline to the opinion that

arsenic would be a preservative of the body. A burial shortly after death would be calculated to preserve the body. The character of the soil, material of the coffin, and absence of fluids from the body would be means of preservation.—Arsenic would not be as apt to preserve the face as any other part, when applied at a distance from it. The preservative effects upon the abdomen would be stronger than upon the face in this case, because the abdomen was nearer the spot to which the arsenic was applied. If there were arsenic enough in the abdomen to preserve, there would be enough to inflame it. One of the organs in the abdomen, which is considered a part of it, was inflamed. The parts were all in a good state of preservation. That which was inflamed was in no better preservation than the rest.—There is in all corpses, reasons for the face decaying faster than other parts: it is uncovered—and in this case there was moisture about it.

It would be impossible to answer the question by what process death is produced by arsenic. In most cases, death is produced in consequence of inflammation caused by it.

I have never formed an opinion whether arsenic destroys by absorption or not. I think it probable that it does enter the blood. I think arsenic would preserve parts with which it does not come into contact, and to which it could not be conveyed by any obvious process. I do not know by what principle it would be that it would do so. I think not by absorption in all cases.—I think the twentieth part of a grain is the smallest quantity that has been detected upon analysis.—I have not heard on the best authority that the 300th part of a grain has been detected.—A stomach inflamed as I suppose that (of Mr. Chapman's) to have been, might be dissolved, and no traces of arsenic be discovered.—I should suppose that in a very large majority of such cases, arsenic would be found. I cannot distinguish between a high state of inflammation produced by natural causes, and a high state of inflammation produced by poison.—Such a state of the intestines as I observed, might be produced by natural causes.

I infer there was poison in this case from the joint evidence of all the circumstances.—All the supposed proofs are liable to exception.—My conclusions in this case were drawn from all the symptoms, and all the morbid appearances; which, taken together, are sufficient, in my mind, to show the presence of an irritant poison, which can be proved by any train of circumstances whatever, short of chemical proof, which I have not heard.—I have not said at any time, that I was physically sure that this man died of an irritant poison, but that is my opinion, founded upon the same evidence which determines us in all medical researches. Where life is dependent upon the result, I should consider the evidence I have, sufficient to say that the man died by poison; that is, the evidence I had was sufficient proof to determine me in my medical practice. From what I saw of the body alone, I should not say what was the cause of his death.—We did not examine the heart.—The brain would not be likely to show the effects of poison by arsenic. I should suppose the examination of the body took up more than an hour.—The circumstances that appear from what Dr. Hopkinson has testified, corroborate my conclusions.

It is within possibility, that all the symptoms and appearances that have been described, all the examinations that have been made and described, and all that I myself saw, might be accounted for on the supposition that the man died a natural death.

I do not think it possible that any one can be certain that a man died by poison, unless the poison be found in the body. The evidence I have, of the man having died by poison, is as strong as it could be, without the arsenic being found there.

Although the appearances and symptoms could be accounted for by natural causes, the thing is so exceedingly improbable, that I could not take it into view in coming to a medical conclusion, which however can never be positive.—Such a course of circumstances I never saw, and never heard described, as attendant upon cholera morbus, existed in this case. The cholera has fallen a good deal under my own observation, in both its forms, (the common cholera morbus and the epidemic Asiatic cholera,) and I have never seen it run such a course, and be attended after death by such morbid appearances—nor have I seen such morbid appearances described as attending it after death.

I have always been convinced that medical testimony is an insufficient ground, independent of any chemical investigation, to warrant me in determining a case of life and death, were I called upon to determine the fact legally. In point of *fact*, it is not to be relied upon

(Adjourned.)

DR. JOHN K. MITCHELL, twenty-second witness for prosecution, sworn.

I am a practitioner of medicine and lecturer on chemistry, and one of the attending physicians of the Pennsylvania hospital. On the 22d September, 1831, Dr. Hopkinson brought to my laboratory in Philadelphia, a jar, containing a stomach and about six inches of the intestine nearest the stomach, called the *duodenum*, which he told me was the stomach of Mr. Chapman, which he had disinterred somewhere on the Bristol Road. In his, and Mr. Clemson's presence an examination of this stomach and intestine was made. The exterior appearance of the stomach differed very much from that of the duodenum. The duodenum was of a nearly white colour, such as a healthy duodenum appears.—The stomach was much darker, and had a reddish tint—it might be said to be a dark grey, tinged with red. The large vessels of the stomach could be traced by a stronger red colour, but of the same description of colour.—The smell of the whole was very peculiar, such as I had never before perceived. Upon consultation we came to the conclusion that it most resembled the smell of a dried Scotch herring. We proceeded then to open the stomach, which was tied at its upper orifice, a string being applied likewise to the other end of the intestine, so as to include the contents of the stomach. Upon laying open the stomach and intestine we found them empty; there being nothing in them but a thin layer of matter, which was attached to the sides of the stomach. Through this adhesive mucus, which lined the stomach, we could, in many places, perceive the colour of the lining coat, or the internal membrane of the stomach, which, wherever it showed itself, appeared of a red colour. In some places the course of larger vessels than those that give the general colour could be traced by a more distinct redness. It appeared as if the blood had spread from the sides of these vessels, the deepest colour being in the middle line, gradually fading until the colour became that of the walls of the stomach generally. Nothing appeared remarkable in the duodenum except the pale straw yellow colour of its internal surfaces.

As Mr. C. had been said to be poisoned by arsenic, and as the most usual arsenical preparation used in poisoning is not very soluble in water, I passed my fingers over the whole internal lining, feeling the mucus which lined it for the purpose of ascertaining if any thing gritty could there be found. In this manner and by examination with the eye, we failed to discover any solid body or particle, in any part of the stomach, or attached duodenum. As the stomach contained nothing, and as no particles of any sort could be discovered in it, the detection of arsenic, or of any other poison presented a probable difficulty. It was therefore thought best to scrape off from the internal walls of the stomach, the viscid mucus with which it was lined; to subject that to one method of analysis, and the solid stomach and intestine to another. In the attempt to remove the mucus, which was done with a smooth edged bone spoon, it was found in some places so much attached as to bring with it the internal coat of the stomach, which appeared in some places to have been loosened from its cellular attachments to the muscular coat, by a very thin plate of what appeared to be effused blood. A little water was passed over the inner surface of the stomach after scraping, for the purpose of the better observing its condition; that water was added to the mucus which had been scraped off. Then the stomach appeared to be less regularly red than might have been inferred from the examination before the mucus was removed. There then appeared many red spots, especially around the first opening of the stomach, next the gullet, and in various parts of the stomach could be perceived dark brown patches. None of these seemed to be the effect of putrefaction—for there was no smell indicative of that process. I do not recollect any thing farther in the appearances of the stomach and duodenum worthy of notice.

To the mucus and water already mentioned, some more clean water was added, and the whole boiled in a clean Florence flask for a considerable time—every thing thus treated was then thrown upon a filter. After filtration there was left on the filter a dark brown substance, which was thrown into nitric acid, (filter and all) in which the stomach and intestine were undergoing solution. The liquid which had been filtered was transparent, with a very faint amber yellow colour. Very small portions of this liquid, taken separately, were subjected to liquid tests. Sulphate of copper in solution, changed the colour of that portion to which it was applied to an undecided grass green. Nitrate of silver in solution gave a brownish yellow floccu-

lent precipitate, which grew darker, and soon lost its yellowishness. Sulphuretted hydrogen in its gaseous state was passed through another portion—and deepened its yellow tint just perceptibly. Nearly the whole of the liquid was then subjected to the action of sulphuretted hydrogen—thrown into a capsule, heated until its yellowness became distinctly marked, and its transparency was gone. The whole liquid was then thrown upon a filter, and from necessity left for several hours. When it was again looked at, a transparent liquid was found in the vessel beneath the filter, and on the filter was discoverable a yellow substance which could not be separated from it, being in too small quantity and the paper not being smooth. As the quantity was too small to hope to look for any decided result from heating it alone, it was thrown (filter and all) into the vessel in which the stomach and intestine were in a state of solution. Every thing then which might be supposed to contain poison, remained to be looked for in the nitric acid solution. That was evaporated nearly to dryness, heated again by nitric acid, and so on, until it was supposed that the animal matter was destroyed. Water was added to the residue, and boiled on it until it was supposed that every thing soluble had been taken up. That liquid was filtered, evaporated to dryness, (I have on this point rather an indistinct recollection,) and treated with lime water. This matter was evaporated to dryness after using the lime water, and it was presumable that if any arsenic were present, it existed in the dried mass as a salt called arseniate of lime. This was divided into three portions, each placed in the closed end of a glass tube, open at the other end. The sealed end of a tube was then placed over the flame of a spirit lamp, (the dried mass was mixed with powdered charcoal, before being placed in the tubes,)—with a view to sublime metallic arsenic, if any there should be. The tube which was held by Mr. Clemson, became covered on its internal surface for some distance above the material employed in the tube, with black looking matter, which an unpractised eye might readily mistake for a metal; for although black, it was glistening. In conducting this experiment, and after these appearances had been observed, the sealed end cracked and opened under the action of the spirit lamp; when Mr. Clemson, who was holding it, turned round and said, “is any one subliming arsenic in the room?” The reply was, No—and he then called me to examine what the odour of the tube was—and I distinctly recognised what I believed to be the smell of the fumes of arsenic. The tube was subsequently heated where the shining black matter had lodged, and as the tube was open at both ends, a current of air was passing through it, and the arsenical smell was perceptible at the upper end. The other tubes were subsequently at different times treated in the same manner—and, with the exception of the breaking, presented similar results—a black matter covering the arsenical ring, if any was there. There was no evidence to the eye that there was any arsenic there. This is a succinct history of the proceedings in my laboratory for the detection of arsenic.

Previously to entering upon the search for arsenic, some tests were used for the purpose of ascertaining whether it would be proper to search for any other poison. Corrosive sublimate and tartar emetic were thus looked for, but no indication of their presence, however slight, could be discovered. That was all that was done with Mr. C.’s stomach as far as I recollect.

Examined by the Counsel for the Commonwealth.

As a chemist, knowing nothing more of the case than one who is not a physician would know, I would say that the tests used upon the liquid obtained by boiling the mucus of the stomach gave no conclusive evidence of the presence of any arsenical matter. They, I think, ought not to be regarded, being negative. The arsenical odour is generally esteemed by high authority on this subject, a very imperfect test of the presence of arsenic; but as the objections to this test are several, and as it was important for public justice that this case should be strictly examined, I tested, one by one, experimentally, the objections. The first alleges that the mixture of animal matter so covers, when it is volatilized along with arsenic, the odour of that metal, that it cannot be perceived. That objection does not apply in this case, as it *was* perceived. Another objection is founded upon the alleged similar odour of certain substances, phosphorus and its compounds—zinc, antimony, and onions, garlic, and things of that kind. Garlic or onions could not, by any possibility, have been present in the matter which was sublimed. Antimony, zinc, and the phosphates, mixed with animal matter and charcoal were tested in similar

tubes under like circumstances. These experiments were repeated again and again, in the absence of Mr. Clemson, without the production of the arsenical odour, or any thing that I could mistake for it, unless I actually placed arsenic in the tube. Supposing myself liable to deception, because I knew what was actually in the tubes, I prepared a set of them containing these articles (ph. of soda, kermes mineral, and some granulated zinc); I placed them, while under treatment by the spirit lamp, and in succession, under the nose of Mr. Clemson, who was ignorant of their contents.—Among these tubes one was prepared with arsenic in a very small quantity. It was only when the tube containing arsenic was heated and presented to him that he said decidedly and promptly, “That is arsenic:” and did not hesitate about the others, that there was no arsenic there.

Desirous to pursue an investigation after the partial failure of this one, I placed in a stomach which was brought to me from the Alms House, a small quantity of arsenite of potash in solution*—called Fowler’s solution, intending to analyze it at my leisure, for the purpose of seeing how small a quantity I could separate. Other duties prevented me from attending to the analysis, and it (the stomach) remained in my laboratory for two or three months. It did not putrify in that time, and at the end of that period it had precisely the smell, as far as I could recollect, of the stomach of Mr. Chapman. A smell which was new to me—and which I observed only in those two stomachs. After all these investigations, I still feel bound by the high authority of those writers who have expressed an opinion on the subject, to say, that the chemical proofs of the presence of arsenic, though amounting to a strong presumption, are not conclusive evidence of its presence.

I am now, sir, to state my opinion upon *all* the proofs.—For these reasons: the suddenness and the violence of the attack, in a neighbourhood subject at that time to no epidemic, in a man of temperate and cautious habits, attended with the following symptoms—sickness and vomiting, a burning pain in the region of the stomach, described as being “like fire”—attended with extraordinary reduction of strength, and very unusual coldness of the extremities for a very considerable period before death, the absence of delirium, the particular character of pulse described, the parched state of the mouth, the unusual livid spots about the face, the preternatural rigidity of the body after death, absence of swelling of the belly, the calm and nearly quiet death after so much suffering, the intellectual faculties remaining perfect nearly till death (there being no evidence that he had them not till death), the period at which death took place,—are the symptoms upon which I *partly* found my opinion. I found no part of that opinion upon the state of the body when taken out of the ground; nor can I with a single comparative fact, with reference to the smell, permit that to form any part of the foundation of my opinion.

The circumstances upon which I in part found my opinion, derived from the examination of the dead body, are those peculiarities in the morbid state of the stomach which I have before noticed. The singular exemption of the intestines from disease, except the rectum, from which there was discharged matter significant of disease in that organ, which, had it passed through the intestines, would have left traces of its progress, being coloured; added to these, the hitherto inconclusive chemical proofs, acquire increased strength—and I am unable, after a careful and considerate view of the whole ground, to resist the conclusion that Wm. Chapman died because of the presence of arsenic in his stomach. That is all I have to say. I think *Christison* is considered the best English authority on poisons. *Orfila*, the best French authority.

Cross-examined by Mr. Brown.

I consider Berzelius as the first *chemical* authority in the world. I do not think that the *whole* of the symptoms demonstrate the presence of poison—and of course that includes the admission that any one of them does not. The bloody serum issuing per anum might have proceeded from a variety of diseases. The livid spots also: they are very usual when malignant fevers prevail—they characterize the spotted fever. After a considerable time, the rigidity of the body is of no unfrequent occurrence. I think it very unusual for a body to become stiff in one hour’s time. It is usual for the body to become stiffer gradually. *Ceteris paribus*, ocular observa-

* Two drachms.

tion of the symptoms is the best test for forming an opinion. A physician might feel himself authorized to pass an opinion upon the cause of a man's death, upon hearing his symptoms, even though the attending physician being competent could not be able to do so, because the person to whom he narrated them might have peculiar advantages for observation. Upon this are founded most medical consultations. In reciting symptoms, *facts* are stated; the opinion founded upon them is an act of judgment. Omissions of symptoms in this particular case could not alter the opinion—because the ground of the case, as regards the principles, has been travelled over. Whether it (the opinion) would depend upon the degree of reduction in intensity of symptoms, I hardly know how to answer. *Cholera Morbus* is a vomiting and purging. Sometimes in indigestion there is violent vomiting—in cases of dysentery there is rarely vomiting; there are occasionally discharges of bloody serum. There is every variety of the state of the pulse in fatal cases of dysentery.

The violent burning "like fire" I never saw presented in the cholera of our own country. In that disease the intestines are found sometimes empty, and sometimes full. I never saw a case in which a patient died from inanition, in cholera. In epidemic cholera of E. I. the symptoms are represented to be like those occasioned by irritant poisons. It is said, that irritant poisons are among the causes of cholera.—I attach no importance to the preservation of the body. To judge of the degree of importance, &c. it would be necessary to examine bodies from that burial ground three months after interment.

The exemption from inflammation of the lower intestines, I do consider important, not as standing by itself, but in connexion with the disease of the stomach and rectum. I believe that there is evidence of the disease of the rectum—the bloody matter which could not have come from the intestines. There are bloody discharges from piles. I have heard no evidence of cholera being rife in that neighbourhood. If there were, I think it would have no influence upon my opinion, unless they were malignant cases. Fowler's solution is administered as a medicine in some cases. It is arsenite of potash in solution. I believe very few physicians administer it now in intermittents. If the medicines were poisonous, those symptoms would depend upon them. I think calomel could not have produced them. I have seen Mr. C. once, several years ago. When the disease is not very violent, the constitution of the individual modifies it very much. Diseases of a very acute character, especially when epidemic, seem to be under no sort of influence, derived from the *constitution* of the individual. Age and sex sometimes make a difference. Smear case and pork, eaten at night heartily, if the person be not accustomed to them, would be very sure to hurt him.

For my friend, Dr. Hopkinson, I must make this apology: this was his first case; he was, without preparation, taken up to the place of interment, and made an examination which gives us the greater part of the information which could be probably elicited for this case, by those means. He has said himself, that it was an inadequate examination. The examination of the rectum was very important—of the heart not very material—of the brain less important—nor the internal examination of the gall bladder.

I could have made a probable conjecture of the state of inflammation of the stomach by external inspection, but no more. I do not think the one-hundredth part of 4 grains could be separated from the body. I could only, without detecting the metal, form a moderate presumption of its presence, speaking from the authorities (sulphuretted hydrogen, reiterated). When the quantity is very small indeed, compared to the amount of liquid, and that liquid contains also animal matter, it sensibly affects the powers of the precipitate, (sulph. hyd.) and it is often necessary to evaporate the liquid to a certain degree to obtain a precipitate, even when arsenic is present. As far as the precipitate was concerned the test was characteristic enough of arsenic. It retained its colour until it stained the filter yellow. If there were arsenic enough to abide that test, I should expect to find enough to abide the final and metallic test.

I applied the test of nit. silver. It threw down a precipitate not characteristic. So of sulph. copper. The true characteristic colour of arsenite of copper is a grass green. The actual precipitate was an imperfect grass green. I stated that I considered the liquid tests used in this case as negative and fallacious. I did not, I believe, reduce the arsenic to metal. Christison says, the alliaceous odour is not to be depended on—I do not recollect his saying that it should be entirely disregarded.

The symptoms at the death-bed are not alone conclusive. The state of the body

was not alone conclusive. I did not obtain the metal—I come to the conclusion that Wm. C. came to his death from the *amount* of moral probabilities—any one proof not being sufficient. I do not think the fact of my not finding the metal makes against the symptoms. I did not try the sulph. copper with ginger. No fresh or unaltered animal or vegetable matter could have remained in the solution by nitric acid when subjected to the attempt at reduction. I never opened a body so long after interment; nor one supposed to have died of arsenic; never applied those tests to a stomach which contained arsenic before death. The stomach from the Alms House abided the liquid tests very much as did this stomach. It was not dissolved. I did not treat it with nitric acid—merely boiled it and tried it with other tests. There may have been arsenic enough in the stomach antecedent to death to cause death, and no particle be found after death. Christison says that there might arise a combination of symptoms which *alone* would show the presence of arsenic. That, however, I consider a conjecture of his, and do not give it any weight. In skilful hands a grain of arsenic would *certainly* be detected in the stomach. I did not apply the galvanic pile. The individual whose stomach was sent to me had not been buried. The stomach was not *prepared*—merely opened and washed. I do not impute its preservation to arsenic.

By the Court.

It would have more clearly demonstrated the diseased state of the rectum to have examined it—and strengthened the appearance of the action of arsenic. Arsenic was not as likely to be there as in the stomach. Cannot say what quantity would probably have killed Mr. C. Mr. Clemson has been for several years in the laboratory of the School of Mines in Paris—the best analytic school in the world—and spent some time in the laboratory of Robiquet, whose business it is to manufacture the most delicate medical preparations. I have every reason to believe that he is highly competent to such an investigation as this, as far only as chemistry is concerned—he is not a physician. I believe him to be a most excellent analytical chemist from my own observation.

By Mr. Brown. I think the sense of smelling is the most fallacious of all the senses.

By Mr. Ross. I do not think that in my laboratory I could be easily deceived in the arsenical smell.

[*Closed at 15 minutes before 7 o'clock, P. M.; duration of the examination three hours and a half.*]

Tuesday Morning, February 21.

THOMAS G. CLEMSON, Esq. twenty-third witness for prosecution, sworn.

Before 1826, I was engaged in acquisition of chemical information in the United States. In 1826 I went to Europe, and in the fall of that year entered the practical laboratory of Mr. Gaultier de Clowbry; at the same time I attended the lectures of Thenard, Gay-Lussac, and Du Long, as delivered at the Sorbonne, Royal College of France. In 1827 I entered the practical laboratory of Laugier and Flier—and afterwards the practical laboratory of Robiquet; after which I gained admittance to the Royal School of Mines. I was then examined at the mint, and received my diploma as assayer. It is dated June, 1831. I then came to the United States, where I arrived in the fore part of September, 1831.

On the 22d September, 1831, I received a note from Dr. Hopkinson, desiring me to assist in the examination of a stomach, supposed to contain poison. On the same day the stomach was opened in the laboratory of Dr. Mitchell, in the presence of Dr. Mitchell, Dr. Hopkinson, and myself. The interior of the stomach was covered by a brown semi-fluid substance, to the amount of a table-spoonful. This being taken off, the stomach had rather a brownish hue; certain parts looked redder than others, and the blood-vessels might be traced by a stronger expression of brown. This semi-fluid substance was washed, and the liquid coming from the insoluble part was tested.—The first test used was the ammoniacal nitrate of silver, which amounted to nothing. The other tests, such as the ammoniacal sulphate of copper, and sulphurated hydrogen, gave no evidence of arsenic. I had little confidence in them, knowing there was a presence of animal matter. The stomach and a small portion of the duodenum; and the insoluble part of the semi-fluid were all treated with nitric acid,

until we concluded the animal matter was entirely destroyed. Let it suffice to say, that we obtained the arsenic which existed there in the liquor, in the state of arsenical acid in combination with lime. The lime was added as lime-water—it was arseniate of lime. To the arseniate of lime we added a quantity of carbon, sufficient to decompose the entire quantity of the arsenical acid combined with the lime. This was put into two tubes, and a small portion which remained was put into a third. Heat was applied to the first tube, and carried to a red heat. We observed something that might be called a ring. I do not believe it was an arsenical ring, for that part of the tube which contained this ring was taken off and digested in nitric acid; and if it had been arsenic we would have discovered it by the tests. The matter contained in the bottom of the tube was so exposed to the lamp, as that the carbon of the lamp should act upon that portion of the arseniate of lime which had not been in contact with the carbon in powder. As I expected, we obtained an odour of arsenic. The second tube I exposed to the heat of the spirit lamp. I was expecting a ring, and the odour of arsenic struck me. I looked round, and asked if any one was burning arsenic? On examination I found that the end of the tube was broken, and the odour of arsenic still given out. I called Dr. Hopkinson and Dr. Mitchell and the servant to smell this odour, and they all agreed that it had the odour of arsenic. I know of no substance which, in my opinion, has the same odour, or an odour which resembles that of arsenic. It is stated that there are certain vegetable substances which give off an odour resembling that of arsenic; but here there were no vegetable substances. Phosphuretted hydrogen is also said to have the odour—I have manipulated it, and have never found the odour.—I account for the smell by the action of the carbon in vapour from the lamp, coming in contact with the arseniate of lime not already decomposed. If in the examination of any mineral substance, I had discovered the same results, I should have said there were traces of arsenic. I believe that was the odour of arsenic that I smelled.

Cross-examined by Mr. Brown.

I should build upon my examination, inasmuch as I say I believe it was the odour of arsenic.—I was not made acquainted with the circumstances attending the death of the individual whose stomach I was examining. I think I was informed that the examination was made with reference to a suspicion of poisoning by arsenic.—At the opening of the stomach, I do not recollect that any person was present but those I have named. During the course of the examination, persons occasionally dropped in. Dr. Hare was there. I do not recollect seeing Dr. Togno there.—The stomach had rather a dark brown hue; the course of the blood-vessels might be traced.—I never examined a stomach before, with reference to the suspicion of poison. I have been present when Mr. Robiquet manipulated with a view to the detection of poison. I never was present at an examination with a view to detect arsenic. The first test used, the ammoniacal nitrate of silver, showed no characteristic precipitate. I look upon this test as vague; as there was animal matter, and unless there had been a great quantity of arsenic, it could not have been discovered. The second test showed no characteristic precipitate. The colour of the water was grass-greenish. I know not whether onions or ginger will give such a green.

Authority goes to say that other substances produce an odour so like that of arsenic, that one may be deceived.—A man can smell the shadow of a shade of arsenic. I cannot say what quantity will give the odour.—I cannot say whether arsenic can always be detected in a metallic state, when its presence may be ascertained by its odour, although we have the means of detecting the smallest visible or tangible particles of arsenic. The fumes which emit the smell, produce the metal. The fumes are the metal in a gaseous form. The same process might produce other metal than arsenic. It is very possible there might have been mercury in the stomach. In that case we would have had a nitrate of mercury. There is something in the eye, as distinguishing between the metals produced. Where the liquid tests fail, and a metal is produced, it is necessary to apply tests to ascertain what the metal is. There are characteristics which the eye will detect so as to distinguish metals, arsenic in particular. In the tube in which the ring was formed, we sawed off the glass containing that portion of the volatilized matter. It was digested in nitric acid, and the proper test used, and we discovered no arsenic.

(Mr. Brown here showed a small glass tube to the witness.)

There is mercury in the bottom of that tube.—The tube contains a metallic ring

of arsenic. I take the lighter ring to be such. This may be proved beyond doubt, by the correct application of heat to that part of the tube containing the ring. Zinc would be reduced by the same process we used.

By the Court. When I have found arsenic by the blow-pipe, I have never been deceived in detecting it afterwards. When there is not arsenic sufficient to be weighed, we apply the term "traces of arsenic," in the description of the analysis of a mineral. It is the metallic substance that gives the odour.

Orfila is the best authority on poisons. Christison I do not consider as high chemical authority as Berzelius, Gay-Lussac, or Berthier.

Dr. Mitchell called again by Mr. Brown.

The tube shown to Mr. Clemson was prepared by myself. It does not contain any mercury.*

ISRAEL DEACON, twenty-fourth witness for prosecution, sworn.

I am Keeper of the Penitentiary for the City and County of Philadelphia. I knew the prisoner, Mina, by the name of Celestine Armentarius. The first knowledge I had of him was on the 17th March, 1830. He came into my custody, convicted of three charges of larceny; he remained until 9th May, 1831, when he was discharged by pardon. He was discharged between nine and ten o'clock, A. M.—I was in the habit of seeing him almost daily. I never knew him to have a fit, nor ever heard of his having a fit.

Cross-examined by Mr. Brown.

I am principal Keeper.—I do not remember Mina's having been cuffed in prison, nor do I remember the marks, when he came out.—If a prisoner is sick, or placed in the hospital, he is always reported to me. If he had had a convulsion fit, it would have been reported to me.—He was employed in winding bobbins in the weaving department.

ELLEN SHAW called again for prosecution.

I don't know much at present—there was a dispute arose about the carriage, between Mr. and Mrs. Chapman; she wanted to go out. She said, she wished to *** he was gone, she was tired of him. She said she was mistress of her own house, and would do as she pleased. He said he could not spare the horse, for he wanted to break up the ground to put his potatoes in. She replied, she wanted the horse, and she must have him. She got the carriage, and she and Lino went. This was about three weeks before his death. I have heard Mr. C. say to Mrs. C., he was very uneasy about Lino's being there—it was disturbing his peace. Mrs. Chapman replied that Lino should not go. Lino and myself were present, with Mr. and Mrs. Chapman.

Mr. Ross here offered to prove, by declarations of Mr. Chapman made in the absence of Mina and Mrs. Chapman, the dislike of Mr. C. towards Mina, and that he was the last person to whom he (Mr. C.) would have confided the care of his family.

Mr. Brown objected, upon the general principle, that declarations in the absence of the interested party are not evidence; and upon the ground that the expressions of Mr. Chapman which they now offered to rebut, were brought out in their own examination.

Mr. Ross offered the testimony to show that the inference which might be drawn from the letter to Watkinson, was not true. It was also offered to falsify the statements of Mrs. Chapman, made to witnesses examined for the prosecution.

The Court over-ruled the objection. The declaration of Mr. Chapman so far as he approved or disapproved the conduct of Mina at his house, would be evidence, to show the state of feeling between the parties.

Ellen Shaw continued.—At the time that Mina and Mrs. Chapman were absent three days, Mr. Chapman did nothing but run about the house, like a crazy man.—

* The impression of Mr. Clemson as to this matter, in which he appears to have been mistaken, was given upon a mere momentary inspection of the tube. Dr. Mitchell, in a letter to the compiler, adverting to this subject, says: "The mistake was one more important in appearance than reality, for, since my return, I have been able to make rings in tubes which contain no arsenic, which the advocates of 'crusts' would unhesitatingly declare upon oath, to be arsenical." Mr. Clemson made no mistake, however, as to the ring; it was in reference to the globules in the bottom of the tube.

He cried. He said he did not know what to make of it. I told him, maybe they had gone to Mexico, for they had talked about it. He said he should not be a bit surprised if they did run off together; the way they were going on. He said he wished the ship had sunk that he came over in.

Two or three weeks before I left, I heard Mrs. Chapman say she expected to go to Mexico in a few weeks.

Their bed (Mr. and Mrs. C.'s) was sometimes made by Mary, and sometimes by Mr. Chapman.—Mrs. Chapman did not attend to it herself, because she was engaged with Lino. Sometimes he neglected to make it, or did not get it done when she wanted him to. She used to tell him if he didn't get it done, he should have no breakfast.

Mina had been two or three weeks at the house before he had any of his spells. He had no birds.

Cross-examined by Mr. Brown.

I have not talked much to the witnesses since I was examined—a little through each other. I told Mr. Ross a few things at the boarding-house last evening. I thought of some things which I did not think of when here before. It was my request to be brought forward now. If there was any thing I knew, I told him I was willing to come. None of the evidence has been read to me. Ann Bantom and Mary Palethorpe were present last evening.

It was about two or three weeks before I left, that I heard Mrs. C. say she was going to Mexico. It was up stairs in her bed-room. She said she would have thousands then, where she had not dollars now. I told her I did not think she would. I told her, Mina did not look, to me, like a man who had much. She introduced the conversation—she said he was a dear young man, and she was going to take him for her own son. I told her it was well she had not my eyes to look through, or she would not think so. She replied nothing. I did not hear of any body but him and her that was to go to Mexico. The children were not mentioned. I told this to Mr. Chapman, because they staid so long. It was on Sunday they went, and not Monday. I heard Mina and Mrs. Chapman talking about it, a week before I left them. It was a couple of weeks before I left them, that they went away for three days. I heard them talk of it before they went to town, pretty soon after he came there. I have often heard her talk of it, and have heard him too say he was going to Mexico. I never heard them say exactly they were going to Mexico together. I think I heard Mr. and Mrs. C. say something about sending William to Mexico. I did not hear how or with whom he was to go. I heard Mrs. C. talk about it, but not Mr. C. I cannot tell whether this was before or after the conversation up stairs. I believe I have heard something about Mina's ordering a carriage, and of Mr. and Mrs. C. riding in it. I heard Mina tell Mrs. C. that he would have the high fence (around the house) torn down, and have it fixed up in the Spanish fashion.

Mr. Chapman used to help Mary make the bed—putting the clothes off and on. This is what I mean by his making the bed. I have seen him do it a great many times. Mrs. C. used to ask if he had made the bed, and would say he should have no breakfast till it was made. He would go and make it, as he was afraid of her. I have seen him making the bed while they were at breakfast. I never told Mrs. Chapman what Mr. C. said, while she was gone. Mina had a dark long coat on when he came there—if I don't mistake, it was black. He had an old light round-about. I think his jacket was dark.

Re-examined. I left because things went on so bad I did not wish to stay. I do not know that Mrs. C. requested her husband to dismiss me. They had picked up a worthless old woman on the turnpike, and they thought she would do. I went away of my own accord—they told me of no reason. My children did not like their proceedings—they said it was too hard a place for me. When they saw her capers with Lino, they told me I must leave. I had been talking about leaving, to go down to my brother's, and I wish I had, and then I shouldnt have been obliged to come to this plaguy trial.

Tuesday Afternoon.

EDWIN B. FANNING, called again.

Mr. McCall objected to the re-examination of this witness, because he was one of

those who were excluded from the court-room by an order of Court, and therefore could not be heard again.* 3 *Starkie*, 1733.

Mr. Ross replied, that the witness now offered was not embraced within the rule respecting the witnesses who should be excluded from the room. But however this might be, he said that he had been unable to find the principle, which is laid down in the note to Starkie, in any other authority, which he had consulted. He referred the Court to *Fost. C. L. 47.* 1 *Chit. Crim. L.* 618. *Russell*, 624, where the power of the Court to exclude witnesses upon the application of either party, is fully recognised, but not a word said as to their incompetency to testify in case they infringe the order of the Court. He contended that the pernicious consequences of such a doctrine could scarcely be foreseen. It never could be in the contemplation of the law that either the commonwealth or the defendant should be deprived of the evidence of an important witness by the mere neglect or disobedience of such witness. We may, said Mr. Ross, order our witnesses from the court-room, but if they choose to violate the order, how can it be prevented—unless, indeed, we lock them up. Suppose that the witness now called was offered on the part of the prisoner, and that the proof of her innocence depended entirely upon his testimony; would this Court, under such circumstances, decide that, because the witness might have been present a few minutes during the progress of the trial, he has therefore become incompetent and cannot be heard. A principle so repugnant to justice and humanity never could be the law of the land. The law in this respect makes no difference between the rights of the Commonwealth and those of the prisoner. If then it would permit such a witness to be heard for the prisoner, it would also permit a witness similarly situated to be examined on the part of the prosecution. I am willing to admit, that the violation of the order of the Court may affect his credit, but I deny that it can affect his competency.

Mr. Brown said, the doctrine for which his colleague and himself contended, was settled; and that the penalty must fall upon the Commonwealth's counsel, whose duty it was to see that he be excluded.

The *Court* over-ruled the objection, on the ground that Fanning was not included in the terms of the rule.

Edwin B. Fanning. As I before stated, Mr. Chapman requested me to tarry with him and take care of him through that night, being then a little after dark; "for," said he, "I am very sick—when Don Lino is sick, all attention must be paid to him, but now I am sick, I am deserted—I am left." I tarried with him that night, till 10 or 11 o'clock, when Mrs. Chapman said to me, I will take care of him." She thanked me for my attention to him.

Some time previous to this, Mrs. Chapman and Mina had gone to Philadelphia, I think on a Sunday morning, and were expected by Mr. C. to return the same day at evening, or on the following morning. They did not return until, I think, the third day after in the evening. The second day after they went, in the evening, Mr. C. became very uneasy in consequence of their not having returned. He said he was not satisfied with such conduct. "I believe," said he, "that this Mina is an impostor; a roguish fellow;—I would not (said he) bear such troubles for a large sum of money. (I don't recollect the sum.) I had rather be poor than to have my peace so disturbed. In all probability (said he) their object is to tarry until the family has retired, and I would like to know whether they would be guilty of improper conduct after they do return; for," said he, "if I know of their going together to Mina's lodging-room, I will be in there, and by * * * I'll kill him," or "take his life." I do not speak the words exactly—it was to that effect. "I would not have my peace so disturbed with this fellow," said he, "and when he does return, he shall leave my house—I will have him here no longer." Mr. C. retired to his lodging-room about 10 or 11 o'clock, earnestly requesting me to sit up until they returned; and in case they should

* The Reporter has omitted to notice, that on Tuesday evening of the first week of the sessions, all the witnesses were, upon motion of counsel, excluded from the court-room during the progress of the trial, except when called up to be examined. The rule was afterwards altered, so as to include in its terms, only those witnesses who resided in the neighbourhood of Andalusia.

Mr. Ross has furnished a short sketch of his argument to this point. The remarks of the opposite counsel were very brief, and the Reporter cannot now well procure them.

return, and go together into Mina's lodging-room, to inform him immediately. I remained up probably an hour. They did not come home, and I then retired.

Cross-examined by Mr. Brown.

This was in the month of June. I can state nothing accurately as to dates. I had been there about two or three weeks before this. I think no one was present at this conversation. I was with him a considerable part of the evening. I think this was not a week after Mrs. C. accompanied Ellen Shaw to Wright's. I had no acquaintance with Mr. C. before I came to that house. The first time I was there was in April. Mr. C. said to me, that his friends were on the other side of the Atlantic—that his wife's affections were gone from him; he said he did not want to go to his neighbours with this trouble—he confided in me as his friend, to whom he might communicate his sufferings. Mr. Bishop, Ellen Shaw, and the children were about the house. I think William was with his mother. I don't know but Mr. Ash was with them also—I think I saw them start.

The first time I saw Mina, I think he had on a black suit—this was within one or two days after he came to Mr. Chapman's. He had black pantaloons, considerably worn; and a blue nankeen roundabout.

This conversation was not more than two weeks before Mr. Chapman was taken sick. Upon their return from Philadelphia, Mrs. Chapman spoke of Mina's trouble on account of the news of the death of his sister. Mina was in great distress for his sister; he went into the parlour and gave vent to his grief. Mr. Chapman went into the parlour and mourned with him. He showed no displeasure towards Mina at this time.

Mr. Chapman was not delirious in his illness when I saw him.—I have not been led to apprehend a charge against myself of administering improper medicines to him.

By the Court. I am very confident Mrs. Chapman did not request me directly to go for a physician.

Dr. Allen Knight called again for prosecution.

Since Mr. Chapman's death I was called upon to attend Mina. I never saw him in a fit. I bled him, at his particular request.

One of the last symptoms in Mr. C.'s case, was his deafness. At times he was delirious—complained of a burning pain in his stomach, and dryness of the mouth. His extremities were very cold—vomiting and purging were frequent, the pulse small and tremulous. I remember no soreness of the mouth—no complaints of the rectum. He was frequently out of bed the day before he died. I remember going out of the room on Wednesday for the purpose of consultation. We treated the disease as cholera morbus. I know of no involuntary discharge per anum. I judge he was delirious, from his behaviour. What he said, was incoherent—he attempted to get up—at times he recognised us, and at other times did not. He was not violent. This incoherency was present about ten o'clock when I left the house—it was present to a slight degree when I first saw him, which was on Tuesday, about 7 o'clock. He would frequently cry out and ask if all was right.

WILLIAM FIELD, Esq. Deputy Sheriff, twenty-fifth witness for prosecution, sworn. [This witness was called to prove the hand-writing of Mina, in the various letters from him to Mrs. Chapman, already published.]

Mr. Ross moved for an attachment against Willis H. Blaney, who was a very material witness, and who had absented himself. Mr. Ross said, this witness was to prove an important fact which he had stated to the jury in his opening speech. The attachment was awarded and issued instanter.

MARY HAMILTON, twenty-sixth and last witness for prosecution, sworn.

I lived at Mrs. Chapman's during the last summer. I went there on the 25th of June. While I was there, Mrs. C. was making preparations to go to Mexico, with Don Lino. There was clothing made for herself and for the children.

Cross-examined by Mr. Brown.

I came out to Mrs. C.'s with Don Lino, and another girl—I assisted in washing and ironing, and sowed the most of the time. I was to wash and iron and plait Don Lino's shirts. He called for me at Mrs. Battel's. Three girls were sent for—a cook and a waiter, forbye me. It was after Mrs. C. returned from New York, and after she told me she was married, that she told me she was going to Mexico.

The Court having decided to wait for the return of the attachment against Mr. Blaney, the jury retired until to-morrow morning, at ten o'clock.

The application for the postponement of the trial of Mina was then taken up—Mr. Rush addressing the Court on the part of the prisoner, and Mr. Ross for the Commonwealth.

[The great accumulation of matter more important to the present publication renders it inexpedient to report this argument. Mr. Rush urged his application upon two grounds: 1. A libellous publication in the Bucks County Republican, of February 14th, 1832, purporting to be a letter from Erie prison, and signed by Lucretia Chapman; which was calculated to prejudice the minds of the public in relation to Mina. This letter is very nearly the same as that written by Mrs. Chapman to Colonel Cuesta, and which will be found in the evidence for defendant. On this ground it was contended to be a matter of legal right. 2. The existing circumstances of the case, viz: the trial now in progress, and the disclosures now making in prejudice of Mina; this ground was addressed to the discretion of the Court.

The Court decided, that the application was not a matter of legal right; but in the exercise of a sound discretion, taking into view the publication alluded to, and the evidence adduced, they consented to the postponement of Mina's cause to the next term; upon condition that the testimony of Mr. Fanning, Ann Bantom, and Mr. Guillou, who resided out of the state, and Mr. Clemson, who was about to leave the country for Europe, should be taken by deposition. The counsel then agreed to take the notes of Judge Fox, which were accordingly filed for that purpose.]

Wednesday morning, February 22.

Benjamin Boucher, called again for prosecution.

I have some further recollection since I went home. On Monday, before Mr. Chapman died, I was mowing in the lot; a chicken came from Mr. Chapman's yard, above the shed; it was coming across the road, and it died before it got across. My son buried it. There were three chickens that died, that came across the road from Chapman's yard. I think it happened in the fore part of the day.—Some of the ducks were dug up, and I fetched the remains of them with me.

Mr. Ross asked, What was the appearance of the bones?

Mr. Brown objected to any description of the bones. It might savour of quackery, for him to say much about these ducks, but he thought the bones ought to be produced to speak for themselves. He had no doubt they would speak with most miraculous organs.

The objection was over-ruled.

Boucher continued. There was something white on the bones. It seemed to be in little fine pieces, and fairly glittered, it was so white. I broke one of the claws open, and it appeared to me there was something there similar to what was on the bones. I wrapped them up carefully in a newspaper, and put them in my hat when I started from home, brought them and left them in Mr. Ross's office. The claw was full and appeared to be sound. There was nothing left but the claw and the bones. All the rest had wasted. They were buried eight or ten inches under ground.

Cross-examined by Mr. Brown.

The ducks died after I had my dinner. I think it was betwixt 12 and 3 o'clock. My son mentioning the black chicken to me, brought the chickens to my mind.

I had not laid out a dead body for several years, before I laid out that of Mr. Chapman. I had been present on such occasions. I think there were lights in the room at the time. It was about daylight.

The stage having arrived from Philadelphia with Mr. Blayne's name on the way-bill, but without his person, the Court would not agree to any further delay, and therefore the testimony for the prosecution was here closed.

Afternoon.

Mr. McCall opened the case for the defendant as follows: May it please your Honours—

Gentlemen of the Jury,

It is difficult for me to express to you the feelings with which I rise to address you on behalf of Mrs. Lucretia Chapman. Personally a stranger to you all, with neither experience nor ability to entitle me to attention, I stand before you in defence of a ruined female, whose character, and life, and all that is sacred and precious to her in humanity, are staked upon the issue of your decision.

The Commonwealth has now closed the evidence on which it asks you to destroy that character and to take away that life. All that zeal, and industry, and talent,—all that the machinery of a vigilant police, guided by skill, and urged on by an unparalleled public feeling, could accumulate for the destruction of this defendant, has been exhausted and laid before you. Her every word and action—the very expression of her features, and the colour of her dress, have been brought in judgment against her. She has passed through a terrible ordeal; and with you it will ere long rest to decide in what manner she has sustained the trial. With a patience highly honourable and commensurate with the occasion, you have listened to the evidence which, during a whole week, has been poured upon you. If its volume be any criterion of its strength, the learned gentleman who opened the prosecution may have been right in saying that it would irresistibly lead you to a conviction of the defendant's guilt. Before advertiring to the disparity between that statement and the proof, let me express my entire concurrence with some of the sentiments which fell from him in his opening remarks. He did not too forcibly depict to you the horrid nature of the crime with which the defendant is charged. I declare to you that I can conceive of nothing more fiendlike and unnatural—more deserving of utter abhorrence and execration. All human iniquity is summed up in the Treason. But the malignity of the crime only renders more improbable its occurrence, and dictates the greater caution in the investigation, lest, shocked and carried away by the very thought of the offence, the mind lose that even and impartial balance which is essential to the due administration of justice.

This remark, just in its general application, is in this case peculiarly appropriate. The defendant, gentlemen, appeared at this bar under circumstances appalling even to Innocence itself. I allude to the extraordinary excitement; to the prejudice—bitter, vindictive, universal—which threatened to crush and overwhelm her. Ferretted like a beast of prey by a kennel of deep mouthed calumniators, the public mind was grossly preoccupied and abused in relation to her character and conduct. Exaggeration held the pencil, and it spared no colours that could render the portrait odious and disgusting. She was pictured as a very monster, formed to adorn a niche in the gallery of infamy—another Messalina. The press, too,—that mighty engine of instruction that pervades every corner of our country—which reaches every cottage, and extends its influence to every mansion,—lent its aid to blacken and to vilify her. Who could appreciate the effect of all this upon even the most honest heart? We have seen it displayed by some of the witnesses in this cause, who build their faith upon newspaper statements, and who judge of the defendant and her actions "*by the way in which things have turned out.*" Believe me, Gentlemen, the mind cannot encounter a more formidable peril in its voyage towards the Truth. The danger is not the less because it is unfelt and unseen, till drawn within its eddying vortex, Reason's frail bark struggles in vain against the insidious influence that hurries it to ruin.

However it may have operated on the public in general, the defendant believes that here prejudice can have no influence. On you, the sworn Ministers of this Sacred Temple, whom duty raises superior to every passion and unholy feeling, she throws herself with perfect confidence in the justice of your decision. During the course of this trial she has shrunk from no investigation; she has courted scrutiny; invited examination—and she has had no cause to repent it. It has removed prejudices; it has cleared up mystery; it has hushed the cry of popular excitement; above all, it has exhibited in beautiful relief throughout the conduct and the conversation of this defendant, that greatest and best of virtues—truth. I trust it will be a strong shield of defence to her in this cause. Various as are the channels through which they have reached you, her statements, even in the minutest particulars, exhibit a consistency truly extraordinary. It will be proved to you that all the varieties of food to which she is said to have attributed Chapman's illness, and which have been caught at as proofs of a guilty inconsistency, were in reality eaten by him at different meals on the day he was taken sick. Equally unsupported by the facts of the case are some other sweeping and unqualified statements of my learned friend. The bloated catalogue of vice and crime which swelled his opening remarks has dwindled into a meagre compass. He spoke of the defendant's barbarous treatment of her husband during his last illness, and her refusal to administer the medicines prescribed by the physician. In addition to the testimony already before you, which neither shows any such refusal or want of attention on her part, it will be proved to you that

when she was compelled to absent herself from her husband's chamber, his two eldest daughters were in constant attendance at his bedside.

He spoke, too, of adulterous intercourse between the defendant and Mina: the motive to the crime—the motive on which this indictment is built. And yet the injured husband receives with open arms the usurper of his bed, and weeps and sympathises with one whom he believes to be the violator of his peace, his honour, and his happiness!

To dwell upon the evidence of the cause is beyond the sphere of my present duty. With these general remarks, I shall pass to the circumstances which constitute the defence.

An individual at an advanced period of life, after a hearty supper on highly indigestible food, in the heat of summer, is seized with symptoms of acute disease, and terminates his career after an illness of five days. He is decently and regularly interred, attended by his friends and neighbours. The physicians (who ministered their art in vain, thought it an ordinary case of cholera morbus. All thought that the glass of life had quietly exhausted itself without being shaken by any unnatural agent.

Subsequent events, however, disturbed this calm. Suspicion, which never sleeps, whispers in the ear of public curiosity the horrible idea of poison, and fastens its venomous fang on the wife of the deceased. The public mind is harrowed up by dreadful surmises. It demands a victim; it cries aloud for vengeance—it will only be satisfied with a public spectacle. Shame to human nature! that man should delight in the contemplation of his brother's guilt, to feed his own self-love by the comparison.

The body is taken up from its repose of death, but it exhibits no appearances that may not have been produced by natural disease. Chemistry is called in to the investigation, but fails in detecting any deleterious agent. Still, the mind predisposed to a conclusion of guilt, sets fancy to work and puts recollection on the track of past events. The most trifling incidents that would before have passed unnoticed are now swelled and magnified into monstrous proofs of guilt. Innocence has no shield against such attacks; character is no protection.

Gentlemen, you have before you the substance of my client's defence: that in the course of the mysterious dispensation which awaits us all, it pleased Providence, by means of ordinary disease, to remove William Chapman to his final account; that the Commonwealth has failed in establishing the grand and primary fact that he was poisoned at all—much less that his death is in any manner to be attributed to the agency of the defendant; that my client, hunted down, has fallen into the toils which her own imprudence has spread around her.—I cannot but indulge the belief that if her conduct is viewed by you with the unbiased spirit which the law requires of you as jurors, your own sense of justice will revolt at the idea of making it the instrument of convicting a wife and a mother of the most enormous atrocity of which human nature is capable. Of one thing I am certain—that you may search the records of deception from the very birth of time, and you will not find a more miserable instance of unsuspecting confidence the victim of calculating villainy, than is presented by this living monument of infatuation. It is my duty to repeat to you, how, beguiled by the cursed fraud of the wretch who stands indicted with her, she linked her destinies to his, and by this rash, but when you have heard its motives, I trust you will say, innocent step, she has evoked the storm of public censure, and brought down upon her head the fury of this prosecution.

Gentlemen, the defendant is the daughter of a respectable citizen of Massachusetts, who helped to fight the battles of our revolution, and transmitted to his children the rich inheritance of an honourable name. Endowed by nature with no ordinary faculties, she made their cultivation the means of her support and usefulness. Since the age of seventeen years, she has been employed in the arduous and responsible duties of forming the morals and the minds of a large number of young persons who have been entrusted to her care, first, in her native state, and subsequently in the city of Philadelphia. She remained for more than a year in the capacity of assistant-teacher in the very respectable Seminary of Mrs. Le Brun in that city, and after leaving her became the principal of a similar institution. During this period she gave satisfactory evidence of her ability as an instructress, and sustained an unblemished moral reputation. As the best proof of it, I mean to call witnesses from those over whose education she presided, and from among those who reposed in her

the highest confidence that one person can repose in another, by entrusting the lives and the intellectual and moral improvement of their children to her care.

In the year 1818 she contracted a matrimonial alliance with her late husband, who becoming possessed of a remedy for obstructions of speech, established a school for the relief of persons labouring under those defects. They remained in Philadelphia until the year 1828, when they removed to Andalusia, in this county, a spot well known to all of you, and which will long be rendered memorable by the events which have given rise to this prosecution. Their union, I must not forget to add, was crowned with harmony. It will be proved to you, that from the time of their marriage, till the event that dissolved it, they lived in the enjoyment of as large a share of domestic happiness as ordinarily falls to the lot of mortals.

On the 9th of May last, the curtain opens upon the scene whose conclusion, I trust, is witnessed in the transactions of this day. On the evening of that day, as the family were collected in the sitting room, a stranger claimed admittance. The door was opened by one of the pupils, and not by Mr. Chapman, as Ellen Shaw told you, and the stranger, dressed in the garb of misery, petitioned for a night's lodging. In reply to an intimation from Mr. Chapman that there was a public house in the neighbourhood, he said that he had already been refused admittance there on account of his poverty. Well had it been for this defendant had she, too, closed her doors upon him. But actuated only by the purest and kindest feelings, she readily accorded him admittance. It was no unusual occurrence. Let it not be forgotten, to her honour, now when every vice and every crime is imputed to her, that there was in that house a *beggar's room*—devoted to the hospitable reception of the forlorn and destitute.

That stranger, as you already know, was Mina. Gentlemen, I do not ask whether you blame the defendant for receiving him, for I am confident that your hearts respond to the feeling that dictated that reception. The dawn of the connexion between these individuals, is bright and radiant with the holy light of universal charity—that charity which stops not to count the cost and calculate the gain—but which only sees in misery an object for relief. This monster of cruelty—this paragon of vice, as they would have you believe her to be—when she welcomed the miserable outcast that had been spurned from the gate of selfishness, only acted in accordance with the dictates of our blessed religion: he was an hungered, and she gave him meat; he was thirsty, and she gave him drink; he was a stranger, and she took him in; naked, and she clothed him. The history which he related of his misfortunes you have already in part heard. I shall content myself, therefore, with a very brief recital. He represented himself as the son of the Governor of California, the heir to immense wealth and distinguished rank. He said that he had left his paternal roof in the company of a friend, for the purpose of foreign travel: that in Paris, his companion died suddenly; and that all his property, together with that of Mina, which happened to be in the same apartment, was confiscated by his Most Christian Majesty. This unforeseen accident left him in a strange land, without friends or pecuniary resources. Recollecting that he had a relative in the United States, he directed his course to this country. He arrived at Boston too late to see his relation, who had taken his departure for Mexico; but learning that a friend of his, named Corsanova, an individual who plays a very conspicuous part in these transactions, was then at the residence of Joseph Bonaparte, he bent his steps towards the mansion of that gentleman. From his ignorance of the country, instead of stopping at Borden-town, he was carried in the steam boat to Philadelphia, when he was seized with a violent attack of disease. Restored to his health by the charitable assistance of a physician, he had set out on foot to prosecute his original purpose of visiting his friend at the Count's. It was on the evening of the first day of his journey, that he solicited a shelter from the hospitable inmates of Andalusia, and imposed on their unsuspecting credulity, the story of which I have given you a mere abstract without attempting any of its embellishments. Its truth or its falsehood is not now a matter for your consideration. Fanciful and extravagant as it may appear, it obtained implicit credence. So deeply rooted is our affection for the marvellous, that there is little beyond the scope of human belief, especially when it comes from the lips of misery, and surprises the judgment through the avenues of the heart.

It is enough, however, for my client, that she was not the only one who gave credit to the tale. Mr. Chapman, himself, was perfectly satisfied with its truth. Part of it he tested by the evidence of his own vision. He examined the person of Mina, and found on him unequivocal marks of disease, and of the cups which he said the physician had applied.

Mina arrived at Andalusia on the 9th of May. On the 11th, the defendant, at the request of Mr. Chapman, accompanied him to the residence of Joseph Bonaparte, for the purpose of seeing the friend of whom he had spoken. This friend, as you may suppose, was not to be found; but what served to increase the delusion of this unfortunate woman, she was told that some Spaniards had been there and taken their leave but a few days before.

Firmly impressed with the belief of the reality of his pretensions, Mr. and Mrs Chapman determined to give Mina an asylum under their roof until he could communicate his situation to his father, and obtain relief from that source to which nature pointed him.

In the prosecution of this design, they wrote the letters which you have heard read, informing Mina's parents that he had found a home in the bosom of their family, where he would receive every attention which his situation and rank demanded. These letters, Mina, accompanied by Mrs. Chapman, took to Mr. de Cuesta, the Mexican Commercial Agent in Philadelphia, who is now in Court, and will be called as a witness, for the purpose of having them forwarded to Mexico. Mrs. Chapman left Mina at the house of that gentleman, and on returning, after an absence of several hours, found him partaking of the hospitality of his board, and to all appearances treated with the respect due to his pretensions. Was there any longer room for doubt? If a suspicion of his character had ever flashed across her mind, that suspicion was now dispelled. Had the intelligence of the Consul discovered the falsehood of Mina's representations, would he not have unmasked the impostor, and saved her from the peril to which she was exposed? Mr. de Cuesta, unacquainted with her and her concerns, did not feel himself called on to make known his suspicion, and thus became the involuntary means of confirming the delusion under which she acted. This was not the only occasion in which Mina availed himself of the respectable name of the Mexican Consul in the execution of his schemes. You will remember that on the 16th of June he forged a letter to Mr. Chapman, purporting to be signed by Mr. de Cuesta, expressing his grateful acknowledgments for the kindness displayed towards his countryman, and his intention shortly to return his thanks to him in person.

Mina, thus domiciled at Andalusia, was treated with all the tenderness of parental affection. He proposed to remain three years in the family of his benefactor for the purpose of acquiring the English language. He ranked himself as a pupil, and, as a reward for her instruction, Mrs. Chapman was to receive the sum of six thousand dollars. The generosity of Mina's promises accorded, indeed, with the loftiness of his pretensions. His gratitude knew no limits. He undertook to fit up the house and grounds in the Mexican style, and as a mark of his grateful recollection of their services, in a paper purporting to be his last will and testament, he bequeathed fifteen thousand dollars to the defendant, and a similar sum to her husband.

It is natural to suppose that the kindness which sprung originally from sympathy for distress, was influenced by his brilliant tales—of mines of silver—of rank and honours—of Mexican liberality and munificence. For though I advocate the innocence of my client, I do not mean to claim for her an exemption from the ordinary feelings and attributes of human nature. The wretched outcast—the suitor for a night's lodging, was now invested with a claim to regard more powerful than any which misery could afford. Self-interest may in part have dictated the conduct which they, Mr. Chapman no less than the defendant, pursued towards Mina, and which is now to be made the instrument of her destruction. It cannot be doubted that even down to the period of Chapman's death, Mina was the object of his respect, confidence, and affectionate regard. It is clearly proved by the deep and sympathetic interest which you are told he exhibited in Mina's affliction for the pretended loss of his sister—by the order for the suit of mourning, on Mr. Watkinson, and by an additional order, which will be read to you, on Mr. Fassitt, of Philadelphia, dated as late as the 15th of June, for the payment of money to Don Lino.

The frequency of the association between the defendant and her pupil, which is urged as evidence of a guilty combination, is explained in the most satisfactory manner by the interest which his supposed misfortunes created; his liability to violent attacks of disease which required immediate assistance; and still further, by the domestic arrangements of the household. The feeble health and quiet disposition of Mr. Chapman compelled him to withdraw from the more bustling duties of the insti-

tution. The active management—the principal control and superintendance of the out-door, as well as in-door concerns, devolved upon the defendant. She was therefore from necessity in the habit of social intercourse and familiarity with her pupils. It will be proved that she frequently accompanied them in their walks and rides. It will be farther proved that she never went to Philadelphia with Mina unless in the company of a third person.

Such was the situation of the parties at Andalusia at the period referred to in this indictment. In relation to the transactions which form the immediate subject of that indictment, the defendant will endeavour to afford you every information in her power. It cannot be expected that she should be able to prove to you whether she gave this medicine or that medicine to her husband during his illness, or that she closed her windows at this or that particular hour of the day. She will give you all the light that she can. She has, it is true, neither ducks nor chickens, nor exhumated bones, to present to your consideration. I mistake—there is one chicken which I must immediately introduce to your notice, and that chicken was purchased from Mr. Boucher himself.

The poison is alleged in this indictment to have been administered in chicken soup. The whole story of the soup and chicken, as you have heard it from the lips of Ann Bantom, carries absurdity on its very face. Instead of asking you to believe that in a family avowedly economical, an entire chicken should have been thrown into the yard uneaten and untouched, a story so improbable as at once to excite suspicion, we shall present to you the testimony of a daughter of Mrs. Chapman, who partook with impunity of this very soup, thus alleged as the deadly vehicle of poison, who will tell you, what is supported by all the probabilities of the case, that the greater part of the chicken, which was a small one, was eaten by her father, while he scarcely tasted the soup.

The death of her husband, which took place on the 23d of June, threw the defendant, and those most dear to her affections, helpless and unprotected, on the broad bosom of the world. It was then that Mina, cloaking the malignity of a demon under the mask of a sacred obligation imposed by a dying man, told her that Mr. Chapman, in his final hour, had enjoined on him to be a protector to her, and a father to his children, and ensnared her into the act which has proved the grand source of all her difficulties. As a reason for their immediate marriage, he urged his desire to return without delay to Mexico, and the customs of his own country, which regarded such a marriage as involving no breach of decorum or offence to public sentiment. The defendant yielded to his solicitations, and, in the expectation of immediately leaving her country, she brought her sister and her family from their residence at Syracuse, in the State of New York, to take up their home at Andalusia, where they have remained till this day.

It is not my wish, even were it in my power, to follow this master of deception, Mina, through all the scenes of folly, falsehood, and fraud, which have developed themselves during the course of this trial. The mind is bewildered in the maze. So young, yet so accomplished in villainy—with a subtlety of genius and fertility of resource that elude every difficulty, with no moral principle to check him in his wild career—deception seems his very element—the ruin of others his pastime and delight. To him the forgery of a certificate or a draft is a trifling operation. He first marries and then plunders the victim of his arts; and yet, by circumstances artfully interwoven, and a plausibility rarely surpassed, he contrives to allay the suspicions which his injuries had begun to excite. It was not till Mina was publicly arrested at Boston as a common felon, that the veil was completely removed from her vision, and she awoke as from the illusions of a dream to the awful realities of the precipice on whose brink she was standing, and from which I trust it will be your duty as well as pleasure to rescue and deliver her.

I have thus endeavoured to present to you as plainly and briefly as I could, the situation of the parties at Andalusia, and the transactions which occurred since the time that Mina appears upon the stage. When to these explanations of what may be deemed equivocal in the defendant's conduct, shall be added the respectable testimonials of a good character which her past life enables her to produce, I trust you will hesitate long before you believe that one against whom accusation has never dared to point its finger, should all at once plunge from the proud height of an honourable reputation, to the lowest deep of perfidy and crime.

You will examine her conduct with the humane and charitable eye that becomes

your office. You will weigh it in the balance of human infirmity. To the charge of folly and indiscretion she pleads guilty, with sincere contrition; but she asserts her innocence of crime. Many of those follies and indiscretions may have flowed from the kindest and best of feelings, and investing them with their darkest and most malignant colouring, they cannot afford any reasonable evidence of the atrocious crime with which she is charged. For them she has already most grievously answered at the bar of public opinion—pursued by the whips and scorns of prejudice and suspicion.

You will remember too, and it cannot be too strongly impressed upon your minds, that the evidence you have heard has been far from substantiating that all-important and essential fact laid in the indictment, that William Chapman died by the administration of poison. Indeed, from the evidence and considerations which will be submitted to you, it is highly probable that he came to his death by natural disease. For the purpose of satisfying you on this point, I shall immediately adduce to you medical evidence of the highest respectability.

Under all these circumstances, I trust that your humanity and your consciences will induce you to say by your verdict, that the proofs which the Commonwealth has exhibited to you, are much too feeble to take away the life of a human being.

Deposition of DR. FRANKLIN BACHE, first witness for the defendant. (Read by Mr. M'Call.)

Franklin Bache, of the city of Philadelphia, M. D., being duly sworn according to law, deposes and says: I am Professor of Chemistry in the Franklin Institute, and College of Pharmacy, in the city of Philadelphia.—The symptoms of poisoning by arsenic are very diversified. They have certain general characters, to which there are numerous exceptions. The most general symptoms are such as occur in cholera morbus; such as puking and purging; general distress at the pit of the stomach; cold perspirations; towards the end of the symptoms, coldness of the extremities; lividness: sometimes a metallic austere taste in the mouth; burning in the stomach; before death, convulsions very frequently supervene. There are cases on record, where a very few symptoms of indisposition have been manifested. The symptoms produced by arsenic are so various, that no satisfactory conclusion can be drawn from them, in proof of poisoning by arsenic. It is quite probable that variation in the symptoms may depend on the age and constitution: and the quantity of poison has a very decided influence in determining the character of the symptoms. These are different where the poison kills in a few hours; after a few days; or the lapse of several weeks or more. These differences depend, in my opinion, partly on the quantity of the poison taken, and partly on the vital resistance of the system. The symptoms of poisoning by arsenic sometimes resemble those of violent colic. The symptoms are very various, and afford but light presumption of arsenical poison, as to their cause. I have never treated a case of real or reputed poison by arsenic. What I state here is the result of professional knowledge. Poisoning by arsenic has various phases; sometimes there is no puking, but diarrhoea alone; and sometimes neither. Five or six grains will produce death; or less, if there is no vomiting.—There are general appearances after death, which are usually thought to occur in cases of poisoning by arsenic, but they are by no means constant, and may be therefore deemed fallacious as a ground of inference, as to the cause of death. All these appearances, thus considered to characterize arsenical cases, occur in other diseases. There is no particular mark which is peculiar to arsenical cases, or conclusive of their nature. I speak (generally without restriction) of the external and internal appearances of the body. In illustration of this, it may be stated, that arsenic often produces a violent inflammation of the stomach, and the best authorities inform us, that the appearances in death by yellow fever are very similar to those produced by arsenic. The appearances in all cases of violent inflammation of the stomach from natural or accidental causes resemble those exhibited by the stomach in most cases of death by arsenical poisoning. Cholera may perhaps produce violent inflammation of the stomach. There are many cases when spots have been observed on the cavities of the heart. Arsenic lessens the contractility and irritability of the heart. The appearances of the heart are by no means so important as those of the stomach. Arsenic is supposed to produce death by destroying the irritability of the fibre. It affects the general system, most probably, by absorption.

I have no opinion on the effect of arsenic to hasten or retard putrefaction, except what I derive from books. Orfila says it has no effect either way—and he is the

highest authority I know. I believe it preserves locally, without having effect on other portions of the frame. Bodies may be preserved unusually long from peculiar circumstances, such as the condition of the body as to leanness or obesity; state of the ground; or nature of the disease.

Arsenic is that poison which is, perhaps, most easily detected a long time after death; its mineral nature, to a considerable extent, preventing its being lost. It can also be detected in very minute quantity. My impression is that some authorities state that so minute a portion as the 200th part of a grain may be detected. Such minute quantities may be detected only by the most expert chemists; but certainly, a grain of arsenic will furnish several experiments to those not particularly skilful. The proofs of the existence of arsenic are made out chemically by tests on one hand, and reduction on the other. The tests, when they yield the characteristic appearances, furnish a strong proof of the presence of arsenic; but the reduction of the metal is more conclusive. The exhibition of the poison in its metallic state is the best evidence the case admits of; and, in my opinion, can always be effected when the liquid tests indicate arsenic. The reason why I consider reduction a better evidence than precipitation by the liquid tests, is, that precipitates are more likely to be mistaken in their character, than metallic arsenic. Some of the best authorities are in favour of the proof by metallization, as being that on which most dependance can be placed; and all speak of it as a highly important proof. I would not be willing to decide on the presence of arsenic without reduction, because I would not be satisfied by any evidence or proof except what I considered the best. I examined the contents of the stomach of Mr. Fenner, in conjunction with Dr. Bridges, and did not feel satisfied of the existence of arsenic until reduction was effected.

With regard to any possible effect of arsenic in preventing putrefaction, it is my impression that if this supposition be well founded, and the mineral were present in sufficient quantity to have a general effect of preserving the body, it could be readily detected. Reduction is the most decisive test. I think the alliaceous odour is not to be depended upon, because other substances have some analogy in odour. The best authorities are against the conclusiveness of this indication.

Cross-examined.

I do not recollect having seen a case of cholera, in which such burning heat in the stomach, as is described in this case, occurred.—The lividity described is one of the appearances after death in cases of poison by arsenic.—From the symptoms detailed, I should certainly say that Mr. Chapman did not die of an affection of the head.—If there is no vomiting, less than 5 or 6 gr. may kill.—When I say the appearances in death by yellow fever are very similar to those produced by arsenic, I mean the appearances of the stomach; other appearances are widely distinct.—In Fenner's case I do not recollect that the alliaceous smell was produced—I think it was not sought after. Phosphorus has a smell somewhat alliaceous; in this case, phosphorus could not be present in the body; but phosphoretted hydrogen, which has a smell somewhat alliaceous, and which is sometimes the result of putrefaction, might possibly be present. I have never observed the odour of phosphoretted hydrogen in cases of putrefaction. Zinc is said to have a smell somewhat like garlic, but I have never perceived it. The smell of garlic itself, in cases of examination soon after death, might be mistaken by the inexperienced for the alliaceous smell produced by arsenic. I think garlic could not have been present after so long an interment as in this case, which I understand to have been nearly three months. Nothing else that occurs to me will produce the alliaceous smell. I do not think I should be apt to mistake the smells I have mentioned for that produced by arsenic, but I might do so. In Fenner's case I was very much struck with a peculiar odour from the stomach and bowels, such as I never remember to have observed before from a dead body. I mentioned it at the time to those about me. It was like tanner's oil.

In common cases of cholera there is not active inflammation of intestines or stomach. If there were a bloody discharge from the anus and no inflammation of the intestines, I should suppose there was local inflammation near the anus. There might be a train of symptoms, which would furnish a strong presumption that they were produced by the taking of corrosive poison. I do not recollect ever examining a body after death by cholera morbus.

DR. JOSEPH TOGNO, second witness for defendant, sworn.

I am a practitioner of medicine. I studied with Dr. Chapman, and graduated in

the University of Pennsylvania. I have delivered lectures on anatomy, physiology, comparative anatomy, and medical jurisprudence.

Considering human fallibility, and considering all that has transpired before me during this trial, I now with reluctance come forward to testify even to the evidence of my own senses.—My friend, Dr. J. K. Mitchell, is in the habit of inviting me to his laboratory every time that any thing interesting is going on. I do not distinctly remember whether I was invited on this occasion, but availing myself of his general invitation, I paid him a visit on a certain day, the date of which I do not remember. Here I found him busily engaged with his friend Mr. Clemson, whom I had never seen before; and who was introduced to me by Dr. Mitchell. This being done, they proceeded to their examination. A solution, which was said to be that produced from certain manipulations of the stomach of a Mr. Chapman, was over a spirit lamp, for the purpose of condensing the fluid. From time to time Dr. Mitchell and Mr. Clemson tried two tests in my presence. The one was nitrate of silver; this trial failed in obtaining the desired result. I was convinced of this, and so was my friend, Dr. Mitchell and Mr. Clemson. The ammoniacal sulphate of copper was then applied, and this test also failed in producing the desired result. While they were thus engaged, I proceeded to a box in which was contained a glass jar, in which the stomach of Mr. Chapman was, as I was informed by Dr. Mitchell. Having heard a great deal of it, curiosity urged me to examine it; and having then no ulterior view, I perhaps did not examine it with all that care and accuracy which such a case always demands. As well as I can remember, the stomach was in spirit of wine. I took it in my hands, and found there was a cut through the coats of the stomach, which exposed its cavity. I turned the inside out, and the whole surface, as far as I now remember, presented one uniform pale colour, resembling a piece of tripe after being washed, with the exception of two dark purple spots, of the size of a cent; and I believe that they were on the posterior part of this cavity, at about a distance of one inch from each other. To this, nearly, my examination was confined. The stomach was somewhat hardened by the spirit in which it had been plunged, and its apparent consistency increased by this process. Not knowing any one of the particularities of the case, except a general rumour that a certain Mr. Chapman was poisoned, I paid no further attention to the case. This is the amount of the facts to the best of my recollection.

In reply to questions put by defendant's counsel.

With respect to the two spots spoken of, my impression was, that they were a mere cadaverous phenomenon, there being nothing more common than the settling of the blood by its specific gravity in the most depending parts of the stomach or any other part, some time after death. To this phenomenon, at the time, did I ascribe the cause of these spots, and not to inflammation. By cadaverous phenomena, I mean those regular and gradual changes which take place after death, and gradually increase to the destruction of every tissue or part.—The nitrate of silver should throw down a straw coloured precipitate. This, however, presupposes the arsenical solution to be colourless, and free from any animal or vegetable matter. The precipitate thrown down in this case while I was present, was of a brownish yellow. The slightest reliance could not be placed on that experiment; but if the arsenic has been mixed with soup, a *white* precipitate would be produced. The ammoniacal sulphate of copper would throw down a brilliant green with flocculency. In this case it scarcely threw down any precipitate; what it did was of a dirty green, and I believe it soon changed into a bluish green. Suffice it to say, that we put no confidence in the result of these two experiments. There are vegetable substances which will produce a green very nearly alike that produced by the solution supposed to contain arsenic in this instance. Those which I have tried are a tincture of ginger and stramonium, substances often used in medicine. I do not mean to say that the tinctures of these substances will produce as perfect a green as a colourless and pure solution of arsenious acid; but that in this case the two might be readily mistaken. The colouration of the solution of ginger would be as clear a green as that produced in this instance. I speak from actual experience. Stramonium would colour the water in the same manner. In elementary works a number of other substances are mentioned which will produce the same result.

Sulphuretted hydrogen is the great detector of metals generally. I believe it will detect any metal. The detection of arsenic is exhibited by a canary yellow precipitate. The reduction of the metal is the best test of arsenic. Where the tests answer perfect-

ly, the metal may be reduced. If any portion of arsenic had been exhibited by these tests, it could have been reduced, in the hands of a skilful chemist. As I am not a very proficient chemist myself, and do not make it my sole pursuit (although I am not a stranger to chemistry), I must rely upon the authority of the best chemists when I state, in answer to the question, that I believe a portion as small as the 200th or 300th part of a grain has been obtained. I do not believe there could be arsenic enough to resist putrefaction in the stomach, which could not be detected by the regular process. I should not feel myself authorized to say there was arsenic from the liquid tests without reducing the metal.—I have heard the symptoms detailed by Dr. Phillips and others. These symptoms are exhibited by other diseases, so much so as even to deceive an experienced physician. I come to this opinion, not upon actual observation, but from the careful perusal of the best authors upon the subject. If the observer is a *good* observer, and in whom we can rely, then we can come to some conclusion, but never as when we examine the thing ourselves. The accumulation and progress of every kind of knowledge depends on the question now put to me. Towards the last moments of life the pulse generally diminishes, the contractility of the heart diminishes also with the life of the individual. Fluttering and irregularity of the pulse are not unusual in other diseases. As a general rule coldness and clamminess of the extremities exist in all diseases. All the symptoms detailed by Dr. Phillips, accompany cases of cholera morbus. Cases of violent indigestion would present very much the symptoms detailed in this Court by various persons.—Discharges from a diseased rectum would be attended with considerable pain. There are bloody feces in piles. In diseases of the rectum, violent diarrhoea, dysentery, &c. bloody discharges to my knowledge are common. When such cases terminate fatally, we find on examination the alimentary canal ulcerated in different parts, which accounted for the bloody stools.—The rigidity of the body some hours after death is not an unusual thing. The body becomes rigid as it becomes cold, and its degree of rigidity is always in proportion of its degree of coldness. It has always a tendency to become cold some hours after death. The rigidity observed in a common case of death by arsenic, cannot be distinguished from the rigidity attendant on any other disease; unless the rigidity has been produced by violent convulsions, in which case there may be contractions of the limbs.

As to the preservation of the body after so long an interment, it may be ascribed to a variety of causes, or all may partially contribute to produce this result; for instance, the age, sex, and temperament—the disease which produced death, and its duration—the state of obesity or leanness of the individual—manner of burial—the season of and time kept before burial—the manner of inhumation—the quality of the soil—the depth of the grave, and finally the flatness or declivity of the ground. These results have been obtained by Orfila, from a series of experiments purporting to ascertain the influence of all these physical agents in retarding or accelerating putrefaction.

I could not discover the state of the inside of the stomach from the appearance of the outside, any more than I could discover the lining of the coat by examining the cloth of which the coat was composed. The external surface of the stomach is covered by a membrane whose functions are diametrically opposite to those of the one inside. Opinions are divided as to the number of coats of the stomach. There are three coats. In a very violent inflammation of the internal membrane, the external membrane sympathizes and becomes inflamed; but the external membrane being inflamed is no evidence of the internal membrane being so.—I could not tell the difference between inflammation produced by arsenic, and inflammation produced by any other cause, as I never saw a case of death by arsenic. In violent vomiting, the gall bladder would probably be found empty. In cases in which there is no vomiting, the arsenic would invariably be found in the stomach. The emptiness of the intestines after death, depends upon the diarrhoea which preceded death. As to the appearance of the intestines I would put no reliance, as being caused by a phenomenon during life, because, during the lapse of three months many phenomena must have preceded the one observed by the gentlemen appointed to proceed to that examination. Moreover, Dr. Mitchell speaks of having observed that the mucous membrane was detached in some parts from the muscular coat, which is certainly an evidence of an advanced degree of putrefaction, showing the fallacy of judging of this case by the appearance observed in the examination. I cannot say that the symptoms would be incompatible with cholera morbus.

For the opinions I have expressed, I rely on Orfila and Montmahou. Berzelius I should put at the head as a chemical authority. Christison is a distinguished authority.

From the best of my impressions I should say, from the symptoms, post mortem examination, and chemical tests, that William Chapman did not die of arsenic.

Cross-examined by Commonwealth's counsel.

I have been a practitioner of medicine three years.—I can state the general symptoms of poisoning by arsenic, but after all they would be fallacious, as, of all the cases which I have read in detail, no two are alike. Violent vomiting, one, two, or more hours after taking the poison, occurs; a constriction of the throat; pain and burning in the stomach; great lassitude, disabling the individual almost to move; after the vomitings have continued some time, thirst; and if this state continue, purging follows; the circulation is slow, and participates in the general prostration of the vital powers. These symptoms run through their career in the space of a few hours—for instance, from three hours to twenty-four hours. These are the general symptoms—there are nervous symptoms, such as convulsions, and at times the loss of the intellectual faculties towards the end of the case.

The reason why I am induced to believe he did not die of arsenic is, that no arsenic has been found. I have no testimony that he did die of arsenic from the exhumation—far from it—the gentleman appointed to examine the body candidly and honourably to himself acknowledged that the examination was imperfect. If I had examined the stomach the day after there would be no certainty that he died of arsenic. There was no appearance in the stomach that induced me to believe he did die of arsenic; my reason is this; that at the time Dr. Mitchell stated that the mucous membrane was detached, which was an evident proof of an advanced stage of putrefaction, which must have destroyed all the appearances which existed during life. There was no appearance in the stomach that he did not die of arsenic. He had not any one symptom that any person dying of arsenic would not have. I have been a student of chemistry and of medicine for eight years. I have studied chemistry with Dr. Green, Dr. Hare, and Dr. Mitchell. I have not paid much attention to analytic chemistry—I mean the manipulation of it.

I believe the stomach was in spirits of wine. I am not positive. I should put greater reliance on the symptoms and the exhumation if the tests had not failed; but these failing, their failure reacts upon the symptoms and exhumation. If the poison had been found, then I should say that the symptoms and appearances were to be regarded, to show that the poison was in the body during life, and not put in after death. I mean that if there is no arsenic found, all symptoms and exhumation go for nothing. In a word, no poison—no poisoning,—no cause—no effect. I consider that the symptoms, exhumation, and tests, are no evidence that he died of arsenic. The symptoms, exhumation, and tests, satisfy me that he did not die of arsenic. I am of opinion that if arsenic enough has been given to produce death, it could be found, and because upon the proper tests being employed, it was not detected, I infer he did not die of poison. There is one case recorded in Orfila, of a man who was supposed to have died by arsenic, and no trace of it found afterwards, but it is not believed to be true. Such cases are not believed by persons who cultivate medical jurisprudence. Orfila says the case I mentioned is not true. Christison, as well as Orfila, says, that in every instance in which they have analysed the contents of the stomach of persons dying by arsenic, they have found it by reduction. I should not rely on the alliaceous odour. As a single test, standing by itself, established authority says it ought to be entirely discarded. Whenever the fumes are sufficient to impart this smell, the metal may be reduced. I have bestowed great attention to medical jurisprudence.

COL. ESTANISLAO DE CUESTA, third witness for defendant, sworn.

The witness asked for the aid of an interpreter, believing himself to be unable to relate his narrative in the English language. He referred to two of the counsel, (Messrs. Reed and M'Call,) either of whom was well qualified, he said, to render that assistance.

Those gentlemen desired to be excused, by reason of the situation in which they were placed as counsel in the cause, as well as from a conviction that the witness was sufficiently acquainted with the English language to obviate any need of an interpreter.

Judge *Watts* said, he had conversed with Col. Cuesta, and was persuaded that he need not apprehend any difficulty.

The witness then proceeded, referring to Mr. Reed for assistance, on a few occasions, in the course of his testimony.

I am Consul of the Mexican Government, for the city of Philadelphia. In May last, I resided in Union Street, No. 5.—My office was next door, No. 3.—On the 17th or 18th of May, 1831, between twelve and one o'clock of the day, there came two persons to my office, one of whom saluted me in Spanish, telling me that he was an unhappy Mexican, whose name was Lino Amalio Espos y Mina; and requesting me to hear his misfortunes. The other person was a lady, Mrs. Chapman. I then offered them seats, and they sat down.

He told me that he was a Mexican young man, whose family were in California. His father, he said, was governor of that State, and his mother was in Mexico. He (Lino) lived with his grandfather, who was very rich, and that was the only merit he had; for he had the same education which I might perceive in himself. His grandfather, having made an acquaintance with an English gentleman, was induced, at his request, to send Lino with him to Europe for some years, that he might see and learn something of the world; and for that purpose, gave him money enough to travel. They went by the city of Mexico, where his mother was, and remained there a week or ten days; she recommended them to Mr. William Taylor, Consul of the United States at Vera Cruz, telling them that this gentleman was very intimate with her, and he could be useful to them. They proceeded to Vera Cruz, where Mr. Taylor received them into his own house, and took their passage for them in a vessel about to sail for France, telling him (Mina) to send letters for his family, to his care. They arrived in France, I do not remember how many days after. In a few days after their arrival, the English gentleman in whose company he went, died suddenly while in church. He then inquired for some person who could speak Spanish, as he could not speak French—a Spaniard came and offered his services. He told him what had happened, and asked him to take him home. They went to the hotel. In a few minutes after, the English Consul came to his room, taking away all their trunks and money; Mina told him a part of those things belonged to him, but the Consul would not believe him, but told him, if he had any right to those things, he could have them in time. Mina was not afterwards able to find the Consul, or any one that accompanied him. Finding himself in a strange country, and without friends, and not speaking French, he complained to a gentleman who was in the same hotel, and asked him for advice. That gentleman pitied him, and told him he had better go back home—that he himself had been in the same circumstances; and gave Mina \$100 to enable him to return. Mina then determined to come to Boston, having a relation in that place, and having heard that his grandfather had money in a bank there. He arrived in Boston, and was disappointed in learning that his relation had gone to Mexico, with a lady whom he had just married; and he was not able to hear any thing as to the money in the bank.—Not being acquainted with the English language, he determined to come on to New York, to see if he could find a friend of his who had taken leave of him in France, for this country. At New York he was told that they would inform him at Joseph Bonaparte's where his friend was; he went there, and could not find any one, and determined to come to Philadelphia by land. He got tired on the way, and went to a tavern to ask for something to eat, and a room to rest. They told him he could have any thing he paid for; he said, he had no money—and the man told him he could go away, for he would not give him any thing. Going on his way he saw a country-house, where he stopt to ask for the same thing. On his telling them how tired he was, and how much he had suffered, they offered him to rest there during the night, and he could go the next day. On that night he told them his history. The next day he thanked the owners of the house for their hospitality, telling them he was going to take leave. They told him that his lot need not change so soon, and that he had better remain there until he found some friend, or received some news from his family. He accepted the offer; and they took him to Bonaparte's, to ask for the same gentleman that he wished to see before; they could not see him, and came back again. Afterwards they came to Philadelphia, and somebody sent them to my office. He then requested me to send the letters which he had in his hand, to his family, and until he received an answer he said he would wait in

the house of the lady who was with him, and who was the virtuous, kind and hospitable wife of the gentleman of that house.

I then remarked to him, that I could not believe all that story to be true, because I observed that his manners, and his bad language, did not show him to be such a man as he would have me believe. He said, it was true, he was an ignorant man, without any kind of education, but the reason was that his grandfather was without education, and had neglected him (Mina) in that particular, and therefore had sent him to travel, to improve his manners. I remarked to him, I did not know that there was any Governor of that name in Mexico. He said, he did not know where his father was, or whether he was Governor or not, for he had only heard it from his grandfather; his father was in some high employment, and he thought it was Governor. I then asked him where was the place at which he had resided; he could not give me any answer. I asked him where his mother lived in (the city of) Mexico: I knew from his answer that he had never been in Mexico, and told him so. He said, he had been there, and that all he had stated was true; but he had been suffering so much from the loss of his friend and his money, that he was almost out of his senses. Then I asked him to give me some proof that he was a Mexican. He asked, What proof? I asked him for his passport. He replied, he had none. I then asked him for his certificate of baptism, which all of my countrymen carry with them. He said his passport was in his friend's power, and he did not know what had become of it, and the certificate of baptism was in his trunk, with many other documents, which had all been taken away. I then told him I would write to the American Consul, and send him the letters he had given me for his family; which were directed to the care of the Consul at Vera Cruz. He then told me he would write another letter to his mother, and I prepared paper and pens for him. When he was about commencing, the lady told me that she wished to attend to some business, and would call again in one hour, to take him back with her, if I thought that would be time enough. I told her it would, and she went out. Mina then asked me to write the letter, because he was ashamed to write before me, as his handwriting was very bad. I told him I was busy, and that he could write himself to his own mother, because it was rather her fault (that he could not write better)—he then said, if he had thought of it before, he would have brought the letters without sealing them, until he had seen me. I saw one of the letters that he had, and as the paper was thick, and sealed with a wafer, I told him I could open it, and he might write a postscript. He asked me to have the kindness to open it for him. I put water on the wafer, and left it until the wafer was soft, and then opened it. He said, he was very glad to learn that manner of opening letters, and that he would never write on thick paper, or seal with wafer. He wrote the postscript and sealed the letter again, and sat down, waiting for the lady. I was then employed in my business for more than an hour and a half, and the lady did not come, at half past three o'clock. I think it was more than two hours after she left my office. I was then called to go to dinner, and I asked Mina if he would come with me and take dinner: it being a custom in my country, that when a person is called to dinner, he invites the stranger with him; but it is customary also, that the stranger never accepts such invitation, because it is understood merely as an act of politeness. But Mina accepted the invitation, and went with me. I was ashamed to take him home, because he was so dirty that he looked like a beggar; but as he came to see me with a lady who appeared to be very respectable, and she herself brought him in her own carriage, I thought I could take him, making this apology to my mother and sisters. My family were at table, waiting for me. We sat down, and in a few minutes after, the waiter told me that a lady whose name was Mrs. Chapman, was in the parlour, asking for Mina. I went down stairs into the parlour, and told her that we had waited in my office for her till half past three o'clock, and as she did not come, I had invited Mina to take dinner at my table; and I would feel much honoured if she would accept a place at the table, as we were just beginning. She thanked me, telling me she had dined, and would wait willingly until Mina was done. I went up stairs to ask my elder sister, who could speak a little English, to be company for her till Mina was done. I came down stairs with my sister, and introduced her to Mrs. Chapman.

[Adjourned.]

Thursday Morning, February 23.

Col. Cuesta in continuation.

As it was very warm, I asked Mrs. Chapman if she would take any refreshment. I believe she asked me for a glass of water. I asked her if she would not prefer a glass of cold lemonade; she said she would, and I ordered the lemonade to be brought into the parlour.

She said then, that her child was taking care of her horse at the door. I went out, and brought him into the parlour, leaving a servant with the horse. I caused some sweetmeats to be brought for the child—I do not recollect whether or not they brought him any wine. I went up stairs to tell Mina to make haste, the lady was waiting for him; he followed me down stairs. Mrs. Chapman got up to go, and in doing so, she told my sister she would be glad to see us at her house; my sister reciprocated her politeness by the same offer. I accompanied the lady to her carriage. When she was in, I observed that Mina was without his hat, and told him he had forgotten it. He made his excuse, saying that his head was disturbed, and he did not know what he was doing. As soon as he got his hat, they went away in the carriage. That very night I was informed that Mr. Taylor was no longer Consul at Vera Cruz, and that he was then at New Orleans. In a day or two after I wrote to him, and sent Mina's letters to Vera Cruz by the first vessel. On the same day I wrote a letter to Mina. These are copies of the letters to Mr. Taylor, and to Mina. (Copies produced and read.)

(Mr. Cuesta here produced and read the copy of a letter written by him to Mr. Taylor, late Consul of the United States at Vera Cruz, communicating what Mina had narrated, and making inquiry as to the truth of the story. The date of the letter 19th May, 1831. Mr. Cuesta also produced a copy of the following letter to Mina, the original of which had been found among Mina's papers on his arrest at Boston, and was now shown by Mr. Reed to Mr. Cuesta and identified. The date was torn off the original, which was postmarked Philadelphia, May 20. The copy was dated 19th May, 1831.

No. XXII.

Muy Sr. Mio,—Me han informado que el Sr. Taylor se halla en Nueva Orleans, le he escrito y luego qe reciba contestacion avisaré áv, lo mismo que cuando reciba las de Mexico. Salude v. à la Sña Chapman de mi parte, y celebrando se mantenga v. sin novedad quedo su atento servr. q. b. o. in.

ESTO. CUESTA.

To Lino Amalio Esposimina,

Care of Mrs. Chapman. Andalusia P. O., Bucks County, Penna.

Translation.

Sir,—I have learned that Mr. Taylor is at New Orleans. I have written to him, and as soon as I receive an answer from him or from Mexico I will inform you. Present my respects to Mrs. Chapman, and believe me, &c.

Col. Cuesta continued.

I never received the answer from his family, nor from Mr. Taylor, because I was told that this gentleman was in New Orleans, and probably he was somewhere else (at the time). A few days after I had written to Mina, I received his answer written in very bad Spanish, in a kind of spelling peculiar to himself, and not to be found in any book; a copy of which this is. (Copy produced and read.)

No. XXIII.

Andalusia, Mayo 21, 1831.

Muy Sr. Mio,—Reiví la de V. S. con todo placer, y fecha de el 19 de el corriente, en del qe do infromado de lo ql V. S. me comunica: e mas he en: contrado una contradiccion, hi detremino pasar a comunicarle a V. S. bervat: mente, para ql V. S. me diriga votre de el particular.

le participo haber en Contrado una presona de mi á mistad la ql me ha asistido prefectamente.

Reciva U. S. Espreciones de la Sa. Chapman y permita me V. S. ponerme alas ordenes de su Sa. Madre y demas familia de su Respetable morada. y se lelva se man-

tenga V. S. Sin. novedad y ordene á su atento servidor q. B. S. M.—Lino Amalio Esposimina.

Sr. Dn. Estanislao Cuesta.

Col. Cuesta continued.

I could not then, nor can I yet, understand the meaning of that letter. But according to what had past between us before, I interpreted it in this manner; he was afraid the lies of which his story was made up, would very soon be discovered, and wanted to make me believe he had found the friend he mentioned, and therefore he would not want my services; and this made me think him an impostor. A few days after in the afternoon he came to my house with Mrs. Chapman, and met my sister. They asked for me, my sister told them I was sick in bed, and they could not see me; and they went away. Eight or ten days after, I met Mina in Chesnut Street, opposite the State House; he stopped me, and saluted me; I told him, I would not be spoken to by him, and he must never stop me in the street again, nor come to my house; that his conduct was very wrong, and if he thought to deceive me, he was very much mistaken. A few days after, when I went to my office, I found a letter on my table, directed to Mina's father; I think the address was in Mina's hand; the letter was written on thick paper, and sealed with a wafer. I knew in a moment what that meant; and asked one of my clerks, who brought that letter there. He said that Mr. Le Brun brought it, asking him to have the kindness to send it by the first opportunity, without saying from whom the letter was. I put it among other letters to Mexico, and sent them by the first opportunity.

A few days after, Mr. Page, the tailor at the corner of Chesnut and Sixth streets, sent to request me to inform him whether I knew Mina. I told him I did not know him, nor any thing about him. In about half an hour the same person came back, and requested me, in Mr. Page's behalf, to know what I thought of Mina. I told him, I did not think any thing good of him, and I believed him to be an impostor.

On the 20th of June I left the city with a part of my family, and was absent until the 10th or 12th of September. A very few days after, a person came to my house, and said he was an officer of the police; and came to see me from a magistrate, to know if I could tell him where Mina was, and whether I could describe him. I believe this officer is now in this house. I told him I did not know where Mina was, and had not taken notice of his appearance; I gave a description, however, which I believe he wrote down. Some days after, this person came to my office with a certificate, signed by Mr. Montolla, and asked me if that signature was genuine. I told him it was not, and showed him the signature of Mr. Montoya, and the seal of the Mexican legation, which was entirely different from that on the certificate. He then asked me to lend him a letter of Col. Tornel, who had been the Mexican Minister before Mr. Montoya was Chargé d'affaires. I gave him the letter he asked for. Some time after I received a letter from Mrs. Chapman, dated at Erie. (Letter produced and read.)

No. XXIV.

Erie, November 29th, 1831.

WORTHY AND MUCH RESPECTED SIR,

Pardon the liberty I take of addressing a letter to you, and under the most distressing, the most agonizing circumstances, do I write. Alas! alas! kind Sir, my pen almost refuses to perform the painful task of informing you, of my melancholly situation; I am a prisoner! Oh! Sir, little did I think once, that I should ever be compelled to address a letter to any one from the gloom of a prison! and that under circumstances the most appalling! Ah! from what a height have I fallen! But yesterday, I had, and enjoyed all that heart could wish; blest with competence, surrounded with a lovely family, enjoying the society and smiles of a husband I loved; what more could I wish? what more had this world to bestow?

But, alas! the *cruel spoiler* came! and in one hour, all, all is blasted!! All my hopes and prospects are vanished! and, O! my husband, who once would have stepped forth to protect me, and sympathize with me, is now no more! his head lies low under the clods of the valley, unconscious of the sufferings of his family! O! how enviable is his lot to mine! While my bleeding heart is torn with a thousand pangs by the death of the kindest, the best of husbands, as if this was not enough to com-

plete my sufferings, in order to put the finishing stroke to them, and dart the last pang to my already too much agonized bosom, I am charged, am arrested, on the false, the cruel suspicion of "being thought accessory to the death of my husband." Was it not for conscious innocence, and the happiness of my dear babes, (those living remains of my much beloved husband; they were ever very dear to him, and are for his sake, as well as their own, very dear to me likewise,) life would be intolerable. O that Heaven would plead my cause! and though I have acted very foolishly, very imprudently, yet may God in his infinite mercy, restore me again to my bereaved, my distressed little family. When I reflect, that there is a probability that my poor, dear husband was poisoned, and that myself am suspected of having assisted in the horrid, the atrocious crime, I am paralyzed! I am distracted! but I am innocent; however dark and unfavourable, circumstances may appear against me. I have been infatuated with a mysterious stranger; a base Impostor! I have been decoyed and duped by him; so, that without due consideration of consequences, which might result from such a step, (believing him, alas! to be a grateful friend to my deceased husband, self, and children,) I precipitately married the cruel monster; and plunged myself and fatherless children into irreparable ruin! The remorse, chagrin, and shame I felt, on account of having been so dreadfully duped in my marriage with that accomplished Villain, are not to be described; for I very soon learned that he was a vile Impostor! And ah! I then feared the worst of consequences. Alas! thought I, perhaps I shall be thought to be an accomplice with him: And where is the innocent person, who would not be filled with fear, if united to so vile a wretch, as I was? My dear little sons having offended him one day, he said "*he would never careess them any more;*" declaring at the same time, that "*he never forgave injuries!*" but that he delighted in revenge! I acknowledged my unhappy marriage to Mr. M'Elwain, and gave him several papers written by Mina. Very soon after this I received a letter from Mr. M'Elwain, informing me, that Mina was arrested in Boston. Though conscious of innocence, I apprehended that it might be possible, that I might be arrested; and oh! the dread I was under of the horrors of a prison! and I equally dreaded the thought of being obliged to appear in Court. Full of these apprehensions, I determined to leave my home for a while, presuming by so doing, I might avoid the evils which I so much feared; but this, I fear, has proved an unfortunate step; I fear it is construed as an evidence of my guilt; I presume it has been the cause of exciting the public mind to such an unprecedent degree against me; for the public journals teem with nothing but cruel invectives.

I never kept a boarding house, before I was married, as was stated in the Philadelphia Bulletin, with much more that was false.

I came to Philadelphia in the autumn of 1813; commenced teaching a school the same autumn; and likewise commenced learning music and French with Mrs. Le Brun the same autumn; and in 1814, I entered Mrs. Le Brun's Boarding School as a teacher of the English branches, where I remained 3 years; Mr. and Mrs. Le Brun know something of my character; and I trust they are among those who believe me innocent; and those who now have no compassion for me, if they but knew the truth of my story, their very souls would weep blood. While I write, my eyes are bathed in tears, and my heart is overflowed with sorrow, occasioned by my unparalleled sufferings! and O! my dear children! what will become of my poor, dear children!! Is there no redress for a heart-broken mother, who would now only wish to live for the sake of her children?—Ah! kind Sir, tedious as my narrative is, I beg that your dear mother may be made acquainted with it; she is the mother of a numerous family; she will feel tenderness for me, who am a mother likewise; she will likewise feel sympathy for my poor aged mother, who is now 83 years of age, she has been the mother of 14 children, I am her youngest surviving child; alas! what must she feel on my account? I fear she will be like the patriarch Jacob on the loss of Joseph; "*his afflictions were so great that he refused to be comforted.*" My Father is deceased; he was a revolutionary officer, Col. Zenas Winslow; his native place was Brewster, Barnstable Co. Cape Cod. his respectability, as well as my character, might be ascertained by addressing a few lines to Gen'l. Cobb, or Doc. Sampson, who reside at Brewster, and are well acquainted with me and my origin. Oh! worthy sir, may I not hope, that when your dear mother and I trust sympathizing and kind hearted sisters, take into consideration, the manner in which I have been so dreadfully duped, and so completely ruined! and by whom?—By an ungrateful

wretch, one whom I for the sake of charity and humanity had been fostering as my own child! May I not hope that they will kindly, nay, zealously, stimulate you to step forward and be a friend to the wretched widow, and the ruined orphans?—He, whom I befriended, has caused our destruction! And now, Sir, if you kindly befriend us, if it is not in my power ever to make you a suitable return, (for I am now in a destitute and forlorn condition;) I will invoke Heaven to smile propitiously on you and yours; and my much injured babes would lift their innocent hands to Heaven, and fervently crave the choicest blessings that Heaven can bestow, to rest upon your head, and surround your path. I have not heard a word from my poor dear children since the 20th of Sept. when I left home. I sigh with a broken heart, and mourn with bitter grief, on account of them; they are not only rendered pennyless; but are deprived of the caresses of their fond parents, who ever doted on them. The favour I am about to ask of you, is great; yet I hope, with your humanity, not too great for you to grant: it is this; that you will have the goodness to have an interview with John Campbell, Attorney at Law; he resides in 6th st. near Race, and consult with him respecting my case; I trust he will do all in his power, to befriend me; and if he should think it necessary that an able Advocate should be employed to aid him in pleading my cause, may I not humbly hope that you will grant me the great favour of employing one for me?—And I do beg, with many tears, that you will descend to call on me with Lawyer Campbell, immediately on my arrival at Doylestown, which, I presume, will be as soon as 8 or 10 days from now. With much confidence that you will forgive me for asking so much of you, and a humble reliance that you will comply with my requests, I now proceed to give you an account of him who has been the foul destroyer of my peace, my happiness.

Mina had been but a few days at my house, when he, together with myself and husband, wrote letters to his family in Mexico; myself and son Wm. calling with him on you with the letters, that they might be forwarded to Mexico. His dignified demeanour at my house, and your respectful behaviour to him, while at yours, inspired me with the belief that he really was the son of Governor Mina, as he had already stated; and while he was at the table, dining with you, your sisters kindly entertaining me in the parlour, the conversation soon turned on this stranger; speaking with much pity and sympathy on account of the misfortunes which he had sustained; your sister Romania said to me, “This young man (Mina,) is very rich in his own country.” Had any doubts remained relative to his claim of being the Governor’s son, this statement, together with your own grateful expressions for the kindnesses I, and my husband had bestowed on him, would have been sufficient to destroy them. He returned with me and my son to Andalusia, where he was again welcomed by my kind husband, who now, with myself, believing him to be a person of distinction, treated him with the greatest hospitality; and during frequent indispositions at our house, we bestowed upon him the utmost care & attention, which he appeared to receive rather as his due, than as a kindness. We even went so far in our indulgences to him, as to order suits of clothing for him at the corner of 6th & Chesnut, his second suit was a suit of mourning, he having received the news of the death of his sister. Thus were we deluded by him. He evinced an extraordinary attachment to Mr. Chapman, myself, and to all our children, frequently saying he had found a father, a mother, three sisters, and two brothers in a strange country. I continued daily to give him lessons in the English language, for which he expressed much gratitude, saying to me one day, in the presence of Mr. Ash, who was then a pupil of mine likewise, that he would give me \$6000 if I would teach him to speak the English language fluently in three years. He frequently spoke of the great opulence of his Grand-father, saying that he owned a silver mine, and that his father was an only son, &c. &c. I presume he told you much the same interesting stories in Spanish, and that yourself was duped by him likewise; or else, methinks, you certainly would have informed me if you had suspected that he was an Impostor. If he succeeded in deceiving you, (one of his countrymen,) and numbers of respectable gentlemen, both to the south and north, is it to be wondered at, that I, an unsuspecting female, was deluded by him likewise?—Would to God, that you had, timely enough, discerned his being an impostor to have saved the father of my children, and myself and lovely babes from ruin! from destruction!! For alas! when the sad news was breathed to me by Mr. Watkinson, (his tailor,) that he had received information from you, that you believed him to be an Impostor, I was then, ah! I was then unfortunately married to him! You will say I ought to have been inexorable, so soon after my

husband's death; this I grant, but, when I refused him, urging the recent death of my husband, he declared that my husband, on his death bed, took his hand and desired him to be a father to his children, &c. this he told to Mr. Ash, as well as to me, and others.

When I urged him to desist his importunities, on account of disparity of years, telling him that such a union would be thought ridiculous in this part of the world, he said that the customs were very different in Mexico, and to that city, to his father and mother, he would immediately return with me and my children, if I would marry him; adding that his eldest sister, when but 20 years of age, was married to a gentleman who was 60 years of age. That it was honour, it was gratitude he owed my deceased husband, as well as myself, for kindnesses we had bestowed on him, that induced him to offer me his hand. Alas! the intrigue, the wiles of a demon, which he practised to decoy me, to gain my consent to marry him! He protested that he wished not to possess any of my property, and on this account, my sister and her husband, who resided in the state of New York, a distance of upwards of 400 miles, immediately came to reside at my place, having sold their own little property at home; thus was my dear sister's and her husband's happiness marred by leaving their own happy home, to go among strangers, and then to witness the ruin of myself and offspring!

Before my dear husband's sickness he always spoke of being on terms of great intimacy at your house, saying one day to myself and husband, with some degree of ostentation, that *you* had ordered a fine large carriage to be built for him, that he hoped soon to have the pleasure of seeing my husband and family ride in it; I think Mr. Ash heard him relate this likewise. I never heard him express a thought of returning to Mexico before my husband's death, but that he intended to reside several years in America.

Sir, I hope the goodness of your heart will incline you to forgive me for adding still more to my already too lengthy epistle; but I am anxious that you should know a few more particulars respecting the *author of my ruin!*

The day but one before Mr. Chapman was taken ill, Mina went to Philadelphia, returned late in the evening, bringing a letter from you to Mr. Chapman; the letter contained grateful acknowledgements for favours bestowed on your countryman, assuring him in a very respectful manner, that you intended very shortly to visit him, and make personal acknowledgements of the obligations you were under to Mr. Chapman. Such a letter as this, from your kind hand, was very pleasing to my poor dear husband, and served to ingratiate Mina more than ever in his favour. On the Sunday following, Mina went to Philadelphia again, returned on Monday morning, brought several lemons, a pine apple, and several dates, said your mother had sent them for Mr. Chapman, as he was then ill. This letter of yours, my sister and eldest daughter both saw; but since the death of my husband, and so much of his vilany has come to light, I have thought perhaps this letter was a forgery, and that perhaps he did not visit at your house at all.

When he left my house for Baltimore, he said he was going to receive several thousand dollars of his friend Carzanova, who was at that place; but when he returned, he said his friend had left for Mexico a few days before he arrived; so he was much disappointed; but said he had learned that a cousin of his was residing near Boston, who was very wealthy, that he would immediately go and obtain a large sum of money of him. It was on his return from Baltimore that I informed him of Mr. Watkinson's having suggested to me that you thought him an impostor; he very artfully replied that you were offended with him on account of his discontinuing his addresses to your sister Romania, with whom he declared he had corresponded ever since he first called on you, till Mr. Chapman's death: He likewise alleged that a reason, why he had not had returns from Mexico, was, he had learned, that you had broken open his letters, and not forwarded them; saying, in the presence of my sister, that "*he would have you up for it.*" Being now ready to start for Boston in search of his cousin, he ingeniously urged me and my sister to write to our sisters by him, requesting, at the same time, that we would not mention his being married, saying that as soon as he received his money of his cousin, he would return and take me and the children to New England to visit my relations, and then he would acknowledge our marriage; we complied, not suspecting he had any evil design; but I have since learned that he was to have been married to the daughter of one of my sisters the next day after his arrest, he having persuaded both my sister

and her daughter to discontinue teaching school and return with him to Andalusia; what his intentions were respecting my sister and niece I know not, but surely he could not have tho't of bringing them to my house. Thus has this monster broken up the good order and peace, not only of my family, but of two of my sisters also.

Thus far, worthy Sir, have I made statements to you, humbly believing, and imploring with sighs and tears, that you, Sir, your kind mother, and sisters will take an interest in my unparalleled misfortunes!

Ah! methinks you will, in the goodness of your heart, extend the hand of humanity, to save, if possible, her, who has been so barbarously treated by him, who so unworthily claimed the name of a Mexican. With the best respects to your worthy mother and sisters, I subscribe myself, kind Sir, your deeply afflicted, your heart-broken friend,

LUCRETIA CHAPMAN.

COL. CUESTOR.

ENDORSED, *Col. Cuestor, Mexican Consul, Philadelphia.*

After I had read that letter, I showed it to my sister, telling her to see what Mrs. Chapman said about her. After she had read it, she said she was very sorry that Mrs. Chapman was mistaken; she was sure she never had told her that Mina was a rich man in his own country, because she could not say such a thing without knowing him. She recollects that when they were speaking in the parlour about Mina, as she had nothing else to talk about to Mrs. Chapman, she told her, in a complimentary way, that she was obliged to her for her kindess and hospitality to that person, supposing that he was a Mexican: and I did the same myself to Mrs. Chapman. My sister also remembered that she told Mrs. Chapman, that it was a pity to see a young man so unfortunate; as he represented himself to be rich in his own country.

As it was necessary to make a very long explanation in reply to the contents of her letter, because every thing that Mina had told her was not true, I thought that that was not the time to do so, and I was afraid my letter might fall into wrong hands, and have an influence against her. As she asked me to call on Mr. Campbell, her lawyer, I went myself to that gentleman's house, with the intention of informing him what Mrs. Chapman wished, and to pay him from my own purse, and do all that I could in her favour. But as I was informed that Mr. Campbell was not in town, and having heard that Mr. Brown was her counsel, I was very glad, because, although I had not the honour of knowing that gentleman, yet his fame had reached me; I therefore thought that it was prudent to reduce my answer to the terms of this letter. (Produced and read.)

No. XXV.

Philadelphia, 10th December, 1831.

MRS. LUCRETIA CHAPMAN, Doylestown,

Madam,—A few days since I had the honour to receive your communication, dated Erie, November 29th. I have perused it with interest, and very much regret the critical and unfortunate business in which you appear to be involved. I hope and truly wish that you are, as you say, innocent; and that you may be acquitted and liberated soon. According to your wishes I have called myself at Mr. Campbell's, the lawyer, who happens to be at Harrisburg; and was informed by one of the family that he had nothing to do with your business; having seen by the public prints that you had a very respectable and able counsellor, Mr. D. P. Brown, I have not the least doubt but that gentleman alone will see justice done to you; therefore, Madam, I have the honour to be,

Very respectfully, your humble obt. servant,

(Es Copia.)

ESTO. CUESTA.

After writing this letter I put it in my pocket, with the intention of putting it in the post office. While at dinner, I was told there was a lady in the parlour who wished to see me. I went down, and found Mrs. Chapman there, and some person with her. I saluted her, but did not know who she was, until she told me; I then told her I was very glad to see her, that I had received her letter, and had also the answer ready in my pocket. I took it out and gave it to her; she read it, and put it into her reticule. I do not remember what she said to me; and I was so

sorry for her situation, that I would not speak with her about it. A few minutes after, she went away.

I think this is all that ever passed between Mrs. Chapman and Mina and myself. As for the stories he has told, they are utterly false.

The counsel for the prosecution declin'd cross-examining Col. Cuesta.

LUCRETIA CHAPMAN, fourth witness for the defendant, being called to be sworn, Mr. Ross asked her the following questions.

How old are you?

Witness. Ten years old.

Do you know what you have come here for?

Witness—(after a pause.) To swear to all I know.

What will become of you if you do not tell the truth?

Witness. I will be cast into hell-fire forever.

COURT. Let her be sworn. (She was thereupon sworn.)

I was at our house in Andalusia with my parents, at the time that Mina came there. He came in the evening, just as the candles were beginning to be lighted up. He had black clothes on. He came and knocked at the front door. Mr. Forman went to the door, and came back and told Pa there was a person there who wished to see the gentleman of the house. Pa said, "it is a beggar, I suppose—tell him to come in." Mr. Forman brought him in. He came up close to Pa and bowed, and solicited a night's lodging. He said he had been refused at the tavern below. Pa told him there was another tavern about half a mile above. Ma said the carpenters had gone, and he might stay all night. Pa said, "very well then." Lino then sat down. We were exercising on a grammar lesson, which Ma was explaining to us. After we got through, he told his story—(my father was sitting in the rocking chair, nursing little John.) He said, he came from Mexico, and when he left, his father was Governor of California. He started from that country with a Doctor, who had relieved his grandfather; his grandfather had a skin growing over his lungs—the Doctor gave him something to make him sleep, and then cut open his side, took the skin off his lungs, and closed it up again. He went to France in company with this Doctor, and while there, the Doctor died suddenly in a church. He went to his boarding-house, and threw his watch and bracelets into a large trunk, which was lined with diamonds, and which his father had given him when he left home. He put on a common suit of clothes, and threw himself on the bed: when the officers came in, to seize the property. He said one of the trunks was his, but as he had on a common suit, they would not believe him, although his name was in full on the top of the trunk. They said he was but a slave of the Doctor's. Two young ladies came in and told them that the trunk was his—they would not believe them, but took the trunk. The ladies gave him \$100 to return with;—he heard he had a friend and relation in Boston, and as there was no ship going to sail for Mexico, he sailed for Boston. At that place he found that his relation had been lately married, and had taken his wife to Mexico to see his relations. He heard there that he had a friend at Joseph Bonaparte's, and he was coming to see him, because he would help him. He said he had walked from Philadelphia that day. The day but one after that, Ma and Mr. Ash went with him to Bonaparte's at Pa's request. They got home early in the evening. A few days after, they went to Philadelphia with Mary Ann Palethorpe. I don't recollect when they came back—I think it was on the same day.—Pa wrote a letter to his father, and Ma wrote one to his mother. I don't recollect how long this was after he came. On Sunday Ma went to Philadelphia with Lino, Mr. Ash, and William, and staid a day or two—they returned on Monday evening. I did not hear what my father said. Ellen Shaw then lived with us. Ellen was eating her dinner, and Pa called her away from the table to speak to her, but I don't know what he said. I don't recollect that Fanning was there—I think he was. I don't recollect that my mother ever was absent three days with Lino. I don't recollect what was said when they returned from town after they went on Sunday. I don't recollect that my mother ever went to town with Lino, without another person.—Lino came from town one day, I don't recollect what day it was; he came in crying, and went into the parlour, and sat down on the sofa. Pa came in and sat down on the sofa beside him, and tried to comfort him; repeating several scripture verses that he had committed to memory. When Ma came in, Lino told her he would go to town on Sunday, (I think it was Saturday he came home.) He

went on Sunday with Ma, and William, and Mr. Ash. This was the same I mentioned before. I do not remember my father ordering Mina a black suit. Father and Mina were very friendly. I never knew them to quarrel or disagree. I do not know how long it was after this that Ellen went away. It was on Friday evening that Pa was taken sick. Before that, I one day went out to the barn; Lino stood leaning against the barn, crying. Pa was there, and asked him what the matter was. He said he was distressed, because he did not know where he could make his home, until he received letters and money from his father. Pa told him he could stay with him until that time. A short time after, Lino was walking behind the shed. The next morning he told, that as he was walking there, he heard a voice saying, "Linetto—Linetto—Linetto!" He said it sounded like his mother's and youngest sister's voices—their voices were very much alike; and in a short time he should hear of one of their deaths. This was before he came home with the news of his youngest sister's death. In a short time after this story, Lino went, I think, to Philadelphia, (after he had got his black suit,) and when he returned he said he had heard his sister was not dead, as a friend of his from Mexico had seen the family, and they were all well.

My father took sick on Friday evening. At dinner (that day) we had veal, boiled pork, and green peas—I think the veal was baked. My father, mother, Lino, Mr. Forman, sister Mary and Mary Ann Palethorpe, were at dinner; I was not at the table myself, I was reading in the room where they ate. Lino had been to Philadelphia the day before; he went by the steamboat, and returned, bringing a letter from the Consul to Pa, stating that he and his mother and two sisters would be out there on Saturday. At supper (on Friday) Pa ate very heartily of smearcase and cold pork. I was sitting in the room, but not at the table. Ma and Pa, Mr. Forman, Mr. Ash, Lino, Miss Palethorpe and sister Mary were at the table. Pa handed the pork to each one of them, said it was nice, and told them to try it; they all refused. I woke up that night, a few minutes after Pa was taken sick—I was in the same room—I slept there. Ma went to get the peppermint, and she could not find it. My father puked violently by spells that night. On Saturday Ma would have sent for the Doctor, as Mr. Fanning was going that way, but Pa said that the Doctor would only give him medicine, and he had cholera morbus drops in the house, which he would take. Mina went on Sunday morning for Dr. Phillips before breakfast. The Doctor came not long after breakfast. I came in the room—he ordered chicken soup, and said that Pa could take a little chicken, not much. He said the soup would be good for him, he might eat plenty of it. On the same day (Sunday) Ma made him a little rice gruel—I helped to pound the rice in a marble mortar. I don't recollect who carried it up. On Monday, the chicken soup was made in the kitchen; the chicken was got at Mr. Boucher's. I don't recollect when the chicken was got, I think on Monday. Mary carried the soup up to my father—I was with him at the time. Mary went down stairs again, and I staid with him. Pa tasted the gizzard, but it was tough—he used to be always very fond of the gizzard when he was well; he gave the rest to me, and I ate it. Pa soaked a cracker in the soup, and ate it with the chicken. He ate only a few spoonfuls of the soup, but he ate very heartily of the chicken. I ate some of the soup myself. I carried it down stairs, chicken and soup both, and set it on the kitchen table. The neck, wing, and part of the back of the chicken was left. As I was going through the dining-room to the kitchen, Ma exclaimed, "How heartily your Pa has eaten of the chicken, and how little of the soup! I am afraid it will hurt him." I went back up stairs to stay with Pa till they had done dinner. I don't recollect that Pa was ever left alone when he was sick. Mary and I took turns attending on him while he was sick. Mr. Bishop attended part of the time. Ma also attended on him. There was a bell in the room. I think Ann Bantom was there on Monday. I don't recollect whether Julianne was gone away or not. I do not remember seeing Ann Bantom in my father's room. I don't remember the day on which my father died. I don't remember the day Mr. Fanning came there. I don't remember the day Mr. Forman went away.

By the Court. I don't recollect that they used any copper saucepans about the house.

Cross-examined by Commonwealth's counsel.

I have told this story to lawyer Brown and to Aunt Green—no one else. I have not told it to Aunt Green this week. I talked to her about it yesterday—Mary was by, part of the time. Aunt Green asked me about it. I have not talked to my

mother about it. Aunt Green asked me when Dr. Phillips first came to Andalusia. I told her it was on Sunday. She asked me how long Pa was sick. I told her five days. She did not ask me about taking up the soup—she asked me who brought it down; I told her it was I. I don't recollect that she asked me how much my father had eaten of it. I don't recollect that she asked me whether I had eaten of it. It was in a blue quart bowl; the soup and chicken were taken up together; the chicken was on a plate, I think. The chicken was whole. Mary brought up a knife and fork with it—Pa cut it himself. It was while the rest of the family were at dinner. Mary brought the chicken and soup up stairs. Mother was not in the room while Pa was eating. I don't recollect who cooked the chicken. Father appeared rather better that morning; he was vomiting a little—not much. He was not vomiting when the soup was taken up. He was able to sit in the rocking chair, while his bed was making. He did not set up any more during the day, to my recollection. Mother was eating her dinner when the chicken was taken up. We dined about one o'clock, I think. My father got worse after eating the chicken. He did not get bad very fast. I don't recollect seeing Mina that morning. I don't recollect whether he was sick that day. When I carried down the soup, Mr. Forman, Mr. Ash, Mary Ann Palethorpe, Mary, and Ma were there. Nobody was in the kitchen when I took it down. Ma had not then finished dinner. Mary staid with him at breakfast. Mary and I staid with him to wait upon him while Ma was busy. Ma was up there several times that day, part of the time waiting upon him, and part of the time sewing. My father was very fond of pork—I think he always ate it when it was on the table. I don't recollect any quarrel between Pa and Ma about the carriage. On Saturday evening, after father was taken sick, my bed was moved to the next room. I recollect, before Mina came, my father leaving his bedroom and going into another to sleep. I don't recollect why he did it.

I went to Philadelphia with Mina after Pa's death—he left me at Mrs. Le Brun's all day. I was going to Baltimore with him to see his friend Casanova, who was very sick. I did not go, because he had a letter that his friend was dead.

I went back to my father's room after taking down the chicken, and staid five or six minutes with him. He had not begun to puke when I left him. I think Ma went up when I left him. I saw him again a short time after I had done my dinner; he was not puking then. I saw him that night; he puked once while I was in the room. I don't recollect that Lino had a fit that night. I saw my father on Tuesday; I staid with him at breakfast. I don't recollect seeing him after that day. I understood he died of cholera morbus—I heard Dr. Phillips say so on Sunday—I saw the letter from the Consul on Friday morning. I heard Ma read it to Pa. No one has told me what Ann Bantom, or any of the witnesses said in Court. My Aunt Green did not put her questions in writing. After father's death, mother slept in the spare bedchamber; it was not the room in which my father was in the habit of sleeping. We all slept together—my truckle bed was moved to that room. All the family slept there. My father made his bed sometimes with my help, when Ma was from home or unwell. I never heard Ma say he must make it. Ma commonly made it. The dining room adjoins the kitchen—they dined in that room that day.

Ma told us she was going to New York, when she went (to be married)—she did not tell us what she was going for. After she came from Albany, she talked of going to Mexico, I believe.

LEVI V. VANDEGRIFT, fifth witness for defendant, being called to be sworn, was objected to by the counsel of Commonwealth, on the ground that he had infringed the order of the Court, by being present during the trial.

After an examination into the fact, and some desultory argument, the Court said, there was some doubt whether this witness was not the individual who was expressly excepted from the operation of that rule; and he was accordingly sworn.

I live within 300 yards of Mr. Chapman's; they were my nearest neighbours. They lived there three or four years. Mrs. Chapman was the active person of the establishment. We had a good deal of intercourse. They lived in perfect harmony so far as my knowledge extends. I live on a farm. I was there once during Mr. C.'s sickness. It was on the Sunday afternoon before his death. I was passing by; Mrs. Chapman hailed me—I rode up, and went in to see him. I inquired after his health, he told me he was better. He said he called me, to state to me, that in case of his death, he did not wish his brother John Chapman's family to be made ac-

quainted with his sickness, or invited to his funeral; as the two families were at variance; he did this, so that Mrs. Chapman should not be censured after his death. He had told Dr. Phillips the same, and had sent for Mr. Scheetz to tell him also. I then left him. I saw him no more until after he was dead. They had sent for me. The sun was about an hour high when I went. I saw nothing very remarkable in his appearance. He was a little dark round the ear.

It was Mrs. Chapman's habit to ride out with her pupils. I never saw any impropriety in her conduct.

Cross-examined.

It was three or four o'clock on Sunday when I called to see Mr. Chapman. I could discover no change in him, except that he had more colour in his cheeks than usual. He did not complain. He said he had had a severe attack of cholera morbus, but was better. Mrs. C. was in the room—no one else. Mrs. C. is said to be an excellent teacher. I never heard any one say they saw any impropriety in her. She was considered a moral woman, by all I ever heard speak of her, and she is so in my opinion. I never saw her and Lino riding out together.

REV. GEORGE SCHEETZ, sixth witness for defendant, sworn.

I am pastor of All-Saints Church, about three miles from Andalusia, near Holmesburg. Mr. and Mrs. Chapman held a pew in that church. Mr. Chapman was occasionally there, and Mrs. Chapman very frequently. It was generally attended by her pupils. On the Sabbath on which Mr. C. was ill, I performed divine service in Whitemarsh. Dr. Delancey (Provost of the University of Pennsylvania) performed in my stead. There was a note directed to me, left on the desk, requesting the prayers of the congregation to be made for Mr. Chapman, in consequence of his severe illness. Dr. Delancey did not open the note. It is not usual in our church to request the prayers of the congregation, except in cases of extreme illness. I attended the funeral. He was buried not far from the church, on the north side. As mention was made of the unusual preservation of the body, it occurred to me that there were three things that might have contributed to it. In the first place, the declivity of the ground.—2d, the nature of the soil, sandy and dry—and, 3d, to which I should attach the most importance, the depth of the grave. I had found fault with our sexton for digging his graves too shallow; in consequence of this complaint he went into the opposite extreme, if such it may be called, and digged them unusually deep. This was the case in this instance. I have been at Mr. Chapman's occasionally. I never saw any thing that gave me reason to suspect the want of harmony in the family.

Cross-examined.

The note left on my desk was signed by Lucretia Chapman.—I live 8 miles from Chapman's. I doubt whether I was there from the middle of May till Chapman's death. I cannot say that I have seen Mr. and Mrs. C. together at church, since Mina came there. I cannot say whether they lived harmoniously after that time. I believe Mrs. C. was in mourning at the funeral. I saw her at church after the funeral—she was dressed in mourning.—I had conversation with her calculated to console her under her affliction. She appeared much distressed.—Sandy soil would absorb water more readily than clayey. The upper surface of the ground was clayey—3 or 4 feet below, it was sandy. I have rather felt a reluctance to leave here till I have accounted for the difference between Mr. Chapman and his brother. When Mr. W. Chapman purchased the place at Andalusia, Mr. John Chapman suggested to me the unpleasant alienation of affection between the two families. Mr. C. did not state that he was prevented from seeing his brother at his death. Mr. W. Chapman was at Mr. J. Chapman's funeral; his family also was there. Mr. J. C. died about three months before William. Some of J. C.'s family were at William's funeral, but arrived very late.

I deem it justice to say, that I find, by examining my Record, Mrs. Chapman's name on my communicant list, I think for 1826: since when, if any thing had occurred in the neighbourhood calculated to impeach her character, I should have been informed of it.—Mr. C. was labouring under an affection of the head, when he attended his brother's funeral.

I don't think it surprising that spots should have appeared on his face after death. The affection of the head was in the neighbourhood of the ear. I think he mentioned to me at his brother's funeral, that it was with great difficulty he attended, on account of the complaint in his head. I don't remember that he had palpitation of the heart. Mrs. C. communed in the church after her husband's death. Her children

and pupils, when examined around the altar, were found remarkably well instructed in the catechism.

JOSEPH MAGOFFIN, seventh witness for defendant, sworn.

I knew Mr. Chapman first in 1817, and Mrs. C. some time in 1818, when they were married. I was his first pupil. I had a bad impediment in my speech at that time—I went to him to be cured. I remained under his care about a year. About a year after that he went out of his house and went to Mrs. Chapman's. She was a teacher. Her maiden name was Winslow. I have been acquainted with them since that time to the present; have visited them—but not since they removed to the country. They lived harmoniously together. Her general character was good; all that I heard against her was, she had a high temper; but I never saw any thing of it. They were both highly moral. She became more and more the active personage of the establishment.

Cross-examined.

Her character appeared as good since she left the city as before. I have seen her five or six times within the last three years. I saw her once, half an hour, when she called to see me; that was the longest time.

WILLIAM M. GOUGE, eighth witness for defendant, affirmed.

I became acquainted with Mr. and Mrs. C. in 1826. I was well acquainted with them from that time until they went to the country. I never saw any impropriety in Mrs. C. I am not acquainted with many persons who know her; her repute was good, except that I heard she was passionate. They lived harmoniously. I was repeatedly at their house, and attended their examinations.—Mrs. C. was the active personage of the establishment. She has come to my office with her pupils riding with her. I have seen her six or ten times since she left the city, generally on business. My opportunities of knowing her general character were equal to those of knowing that of any other so near the city.

HENRY KORN, ninth witness for defendant, sworn.

I was acquainted with Mr. and Mrs. C. in September, 1826. I knew them intimately. My daughter was a pupil of theirs for six months. Mrs. C. seemed to be the active one of the firm. Her character was more than moral—I thought they were a very religious family. They lived more harmoniously together than people usually do. I have no hesitation in saying her character is good.

ANTHONY M. BUCKLEY, tenth witness for defendant, affirmed.

I became acquainted with Mr. and Mrs. C. in 1825 or '26. My sister had a son who had a very great impediment in his speech, as a pupil there. I was a pupil a few weeks myself. They lived in Pine street near Seventh. I was frequently at the school. I never observed any thing but the most perfect harmony at that time. The generality of persons have spoken well of Mrs. C. I never heard her moral character impeached. She appeared to be the active person.

Cross-examined. In 1827, I heard her character impeached on account of ill temper. I have known her since she left the city. Mrs. C. showed me letters from Mr. C. addressed in the most affectionate terms.

[Mr. Magoffin was here called again to prove the handwriting of Mr. Chapman in a letter to James Fassit, Esq. Mr. Brown then read the letter, which consists of a bill for boarding and tuition, amounting to \$51 25, and underneath, the following note:]

Dear Sir—As it is agreeable to Mrs. Chapman for your son Huson to remain under her care a quarter as you requested, I take the liberty of handing you the bill as spoken of, the payment of which to the bearer, Don Lino Amalio Esposimina, will oblige, Dr. Sir, yr. hble. servt.

W. CHAPMAN, for Mrs. C.
Andalusia, 15 June, 1831.

FRANCIS C. LABBE, eleventh witness for defendant, sworn.

I knew Mrs. Chapman a year before she was married, when she was Miss Winslow. I have been well acquainted with Mr. Chapman. I have been at their house frequently. I taught dancing in their school for four years. They lived very happily together as far as I could see. My daughter was there as a pupil, nearly two years. My acquaintance continued until they removed to the country. Previous to my daughter's going to her school, I made inquiries as to her character. Her character is good.

JOSEPH DIXON, twelfth witness for defendant, sworn.

I reside in Philadelphia. I have resided in Mrs. C.'s neighbourhood. I have

known her between 12 and 13 years. I knew her husband. Three of my daughters were pupils—they continued two years. They lived in harmony as far as I know. I have seen her but once since she removed to the country. There was interchange of visits between our families in Philadelphia. Her general character was good.

Deposition of WILLIAM DUANE, Esq. thirteenth witness for defendant, read.

William Duane, one of the aldermen of the city of Philadelphia, being duly sworn, says—I was acquainted with Mr. and Mrs. Chapman. I became acquainted with them in 1826, and have known them ever since. At that time they lived in Pine street, about 200 yards from my residence—they lived there several years. I have been at their house twice, and they were frequently at my office. I never saw any thing but the utmost harmony and cordiality; indeed I thought exemplarily so. They were very respectful toward each other, and there was always a sympathetic kindness between them. She held, as well as himself, a highly respectable character, and was entirely a lady in her deportment. She always appeared to be the most active personage of that establishment, which was a boarding school. I had no reason to think that her character was not entirely unexceptionable, although from my local and official situation, I had every opportunity of hearing her character fully and constantly.

Being cross-examined, says— My opportunities of knowing Mrs. C.'s domestic character were limited. My visits to her house were made from curiosity. I never, to my recollection, took a meal in her house. At the outside, I was never at her house more than three times in my life. I knew Mr. and Mrs. Chapman about two years before they left the city. I have not known them since.

Friday morning, February 24.

MISS JANE VALLANCE, fourteenth witness for defendant, affirmed.

I have known Mr. and Mrs. Chapman for many years, but have not had very familiar intercourse with them. My sister and I were pupils of theirs, I cannot say how long. I have not been intimate enough to say how they lived together. I considered Mrs. C.'s moral character good before this affair. My sisters have been at school at Andalusia. I reside in Philadelphia.

MISS CATHERINE VALLANCE, fifteenth witness for defendant, being affirmed, testified that she and several of her sisters had been pupils of Mrs. Chapman—two of them since the removal to Andalusia; and that the general character of Mrs. C. was very good up to this affair.

WILLIAM SHAW, sixteenth witness for defendant, being affirmed, testified that he had known her first about 19 years since, but had never visited her house since her marriage—and that her general character was good while he knew her.

MISS ELIZA VANDEGRIFT, seventeenth witness for defendant, affirmed.

I have known Mrs. C. ever since she lived in our neighbourhood. We were near neighbours, and interchanged visits with each other. I have been at her house for a week at a time. I was there two or three days at the time of the funeral. Mr. and Mrs. C. appeared to live very agreeably together. Her general moral character was good, up to the time of this disturbance. I never observed a want of kindness between them. I have been at the house since Mina came there.

Cross-examined. I took tea with Mrs. C. after the funeral—I did not observe any thing peculiar in her conduct. She was in the room with Mina. I don't think she appeared to be sad. I did not hear her laughing that afternoon. She told me that Mina had a fit after their return from the funeral, and that he was in bed. I believe she went to see him. I don't recollect whether he was at the supper table.

Re-examined by Mr. Brown. We were all in the room with Mina, before he had the fit. He went to bed then, and I did not see him afterwards. The widow of John Chapman took tea there.

WILLIAM VANSANT, eighteenth witness for defendant, affirmed.

I live in Warminster township. I have known Mr. and Mrs. C. about five years. I was a pupil of theirs. They lived in Pine street the first time I was with them—the second time in Andalusia. I remained at Andalusia eleven weeks. Mrs. C. was the active person in the establishment. I never saw any thing unkind in the conduct of Mrs. C. towards Mr. C. They lived, generally, harmoniously. Her general moral character was very good. We had prayers and reading in the mornings.

Cross-examined. It has been two years since I was at school. I have only seen her twice since that time; the last time was in May last.

Mr. Brown produced and read three certificates: The first, signed by *Hetty G. Dillingham*, dated Brewster, (Mass.) Jan'y. 9, 1832, certifying that she resided with Mrs. C. from two to three months in 1818, and that "her deportment toward her husband, was that of a dutiful and affectionate wife."

The second, signed by *Mercy Baxter*, dated Dennis, (Mass.) Jan. 9, 1832, certifying that she was a scholar and assistant in the school of Mrs. Le Brun, in which Mrs. C. was a teacher, in 1814 and 1815, and that Mrs. C. "then sustained an unblemished character."

The third, signed by *Louisa Baker* (a niece of Mrs. Chapman), dated Dennis, Jan. 9, 1832, certifying that she had resided with Mrs. C. between four and five years, that Mrs. C. was "tender to her husband," and that "they both seemed to enjoy an uninterrupted happiness in each other's society." [The certificate does not specify the time of her residence with that family.]

The evidence here closed on the part of the defendant.

ELLENOR BOUTCHER, for the prosecution, sworn.

The chicken was sold on Sunday, to Mr. C., about 11 o'clock in the fore part of the day.

Cross-examined. I don't recollect any thing about the death of the chickens, nor when they died.—I never had any ducks to die so before. I said, I supposed fish water would kill them, because they were an easy thing killed.

By the Court. My husband said he thought the ducks were poisoned. I did not think any one would poison them. There had been a complaint of my fowls running over there. Mrs. C. bought a pair of chickens of me.

Q. by Mr. Ross. I have never known ducks to die as these died.

By Def'ts. counsel. I examined one of the ducks, and found its craw was full.

Levi D. Vandegrift, called again for defendant.

Last spring a year I had a flock of ducks, and I had a mason building a platform: those ducks came and fed of the lime water, and I think all died but one, in the course of 12 hours. These were about a week or two old.—I think there were masons or carpenters at Mr. C.'s in the month of June.

JOHN A. HELLINGS, affirmed, for defendant.

I had, about four years ago, upwards of sixty ducks, of various sizes. I think we lost them all in the course of 48 hours.

Cross-examined. I have known chickens to die suddenly. We laid the death of the ducks to salt pickle, and found salt in their craws. I have known them very frequently in wet weather to fall over.

Mr. McCall here read to the Court and jury from the following medical authorities: Manual of Poisons, by Montmahou, pages 8, 11, 13, 14, 15, 17, 21, 38, 50.—John Gordon Smith's Hints, 11, 12.—Principles of Forensic Medicine, 8, 98.—Christison on Poisons, 184, 108-9, 215, 92, 232.—Cooper's Medical Jurisprudence, 424, 426. Amer. Jour. of Sciences, No. 9, 1829, 246, 242.—Beck's Med. Juris. Vol. 2, 218.—Orfila, 399.—North Amer. Med. and Surg. Journal, No. 23, July, 1831, 73.—Paris and Fonblanque, 155, 158-9.—Med. Reporter, No. 22.—North Am. Med. and Surg. Journal, No. 20, p. 302.—3rd Paris and Fonblanque, 295.—Amer. Jour. of Medical Sciences, No. 12, p. 523.—Dr. Yellowley's Transactions, Vol. 4, p. 410.—N. A. Med. and Surg. Jour. No. 19, July, 1830, p. 203.

MISS SARAH GANDO, sworn, for defendant.

I have lived twenty years in the neighbourhood of Mr. C.'s residence, about a mile off. I have occasionally staid at her house, never more than a week at a time. Mr. and Mrs. C. lived harmoniously. I never saw Mina, and don't know that I was there while he was there.—Mrs. C. was the active personage of the house. Before this disturbance, I never heard any thing bad of Mrs. C. They had family prayers twice a day.—I have not known her to ride out with her pupils.—I was at Mr. W. C.'s at the time his brother died. He told me, he thought he was treated very unkindly by his brother's folks—they did not permit him to see him during his sickness.

JOHN THOMPSON, affirmed, for defendant.

I was three months at Mr. and Mrs. C.'s school at Andalusia. I left there about a year ago. They lived harmoniously, as far as I know. I can't say what was Mrs.

C.'s general character with regard to deportment before this circumstance. I live upwards of eight miles from the house.

Mr. Willis H. Blayney came in to-day upon the attachment, and was now offered to prove an important point, which Mr. Ross, in his opening speech, introduced to the attention of the jury, as a part of the evidence to be brought out by the prosecution. The Court decided that it was too late to do so; and directed him to pay the costs of the attachment. Mr. Blayney filed an affidavit, previously to this direction of the Court, assigning as the reasons for his absence, the illness of his child, and the urgency of his official duties, as High Constable of Philadelphia. He was then called as a rebutting witness, as to the character of the defendant.

I believe I am acquainted with the general character of Mrs. C. From 1818 to 1829, I have always considered her character good. Since then, I have considered it bad—gradually getting worse. I became a police officer in 1829.

Cross-examined.

I have heard bad of her from 1829.—I have not said within the last week that I knew nothing bad of her—not in those exact words.—She lived in my mother's house, and behaved herself remarkably well. My sister has taught music in her seminary for several years. I have said, that if the prosecution expected me to give her a bad character, they would be mistaken; that is, to my personal knowledge, I have never seen any thing but what was right. I have visited at the house of Mr. and Mrs. C. They lived very happily together—I never heard any thing to the contrary. When I speak of her general character, I speak of police report. I can't say I ever heard a good police report. I can't say that Mrs. C. said Lino went to Boston; but from what she did say, I wrote to Boston and New York. I was the first that started this proceeding.

The letter that was sent from Washington, written to Mina, was what first induced me to move in it. I persevered more strongly in it, *in consequence of some matters I had heard of Mrs. C.'s character*, which I heard from the police. (Mr. Ross objected to any further examination upon this subject.) The report of the police was perhaps a year before this affair. I think I heard it from Mr. M'Lean and Mr. Garrigues.—I call that general character.

By the Court. I never heard any thing against her, except from the police. If I were to find stolen goods in a person's house, or if I knew that counterfeiters had been taken in that house, I would say the owner of the house had a bad police character.

(*Testimony closed.*)

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Friday Afternoon.

Mr. REED, for the Commonwealth, addressed the jury as follows:

We may, I presume, congratulate ourselves, Gentlemen of the Jury, on arriving at this period of the cause. It would be doing great injustice to my own feelings and to you, were I to pass by the opportunity, the first that has occurred to me, of expressing the grateful sense I have of the patient and unremitting attention with which you have listened to every part of this painful and protracted investigation. I am fully aware that the tribute from me is worthless, but I cannot deny myself the pleasure of saying, what I am sure not only my colleague, but the gentlemen on the other side will join me in saying, that no cause, whether as respects their Honours on the bench, or the Jury, could have been better tried than this has been, with a more sacred regard for the rights of the parties, or more undeviating kindness and courtesy to every one connected with it. I should badly requite this kindness, were I in any way, or for any personal object, unnecessarily to trespass on your time. It is not my intention to do so. I have a specific and an important duty to perform, and keeping in view the solemn responsibility under which I act, and the great interests committed in part to me, and at the same time incidentally looking to your convenience, I hope to fulfil that duty and satisfy my own sense of professional obligation, without meriting a complaint from you.

We are all here under great responsibility, you, Gentlemen of the Jury, their Honours on the bench, our friends on the other side, and my colleague and myself. From it, varied as it is in each instance, none of us are disposed to shrink. We have deliberately assumed, and long before this have fully realised it. The duty you have undertaken is not less distinctly defined than ours. It is with you as with us matter

of conscientious obligation. It is too, as respects you, varied in its character and objects. You will be reminded often enough before this cause is concluded, with all the emphasis of impassioned eloquence, of what is due to the wretched prisoner at the bar, and God forbid that I should utter a word calculated to impair her just claims. Her rights are sacred. They are guarded by the constitution and the laws, and too strongly fortified by the sympathies of humanity to be endangered. The alleged "fury of this prosecution" cannot affect them. But they are not exclusive, not paramount, and it is necessary for you to bear in mind that you are acting under other responsibility quite as high as private interests can create—responsibility to your country and to your God.—To your country whose laws protect each one of you, and whose laws, you, as part of the temporary magistracy of the country, are sworn faithfully and fearlessly to execute. There is even higher obligation and more elevated responsibilities yet. You are required by the terms of the adjuration you have made to recognise those eternal principles of natural justice which human laws are made to enforce, and to complete that part of the great scheme of retribution, which Providence, in its wisdom, has delegated to humanity.

In dividing the responsibility thus created, permit me to say, that no inconsiderable share devolves on my colleague and myself. We are here in the execution of a high public trust. The interest of the whole community, of the citizens of this county, of each one of you, of every one within the sound of my voice who has a concern in the well being of society, are confided to us, and on us alone, will fall the censure, whether merited or not, if criminals like these escape from justice. I hope you will believe me in saying, that more than once in the progress of this trial, I have painfully realised the amount of public expectation, and have been sensibly oppressed by the solemnity of the trust in part committed to me. We are here not as ordinary prosecutors in an ordinary case, not merely as the official representatives of the commonwealth whose laws have been broken, and whose peace has been disturbed, but we are placed by the evidence in this case, and the peculiarity of the crime charged in the indictment, on more exalted ground. We are here to enforce the primary and elementary laws of humanity, to defend the tenderest relations of human life, the holiest impulses of human nature—the sanctity of familiar intercourse, the purity of domestic love. They have all been outraged here. The incidents of this tragedy involve the violation of them all. It is an awful consideration. But of the household where, not a year ago, at least comparative happiness and tranquillity existed, and all these relations were apparently maintained, the mortal decay has been most rapid, and the wretched remnant is now before you. The wife of an honest and once contented husband, the mother of innocent children, is now on her trial before you for the murder of that husband and the consequent ignominy of those poor children, and on us devolves the duty, painful and ungracious I need not say it is, of prosecuting a crime like this to justice. I regret most sincerely that the learned gentlemen who so ably conduct the prisoner's defence, have thought it necessary to refer to the conduct of this prosecution in terms of censure and reproach. Do they think that we are insensible to the painful responsibility of our relation to the prisoner and the public? Does their cause require the support of offensive imputation on those who, in the conscientious discharge of official duty, are arrayed against them? One of the counsel, (Mr. Brown,) in the progress of this cause, I hope inadvertently, spoke of conviction being our *trade*, and the gentleman who so eloquently opened the defence, (Mr. M'Call,) in advertizing to the possible influence of prejudice on his client's interests, claimed your protection from the "fury of this prosecution." Sir, the necessary anxieties of our position in this Court, do not need aggravation like this. The imputation is as unjust as it is unkind. This prosecution has been conducted in no furious spirit, and is too strong in its own merits to require the aid of prejudice or public opinion to sustain it. If imputations like these are merely part of the ordinary machinery of defence, I am willing they should go for what they are worth, but if they are really uttered seriously and in sincerity, I, as one of the officers of this prosecution, most indignantly repel them. I would confidently appeal to the gentlemen themselves, so soon as the professional excitement which prompted these complaints shall have subsided, whether any thing has been done or said on the part of the Commonwealth here, which deserves the charges that have been made, or has transcended in the least the limits of the most fastidious propriety.

There is a consideration that has often obtruded itself on my mind during this

investigation, and which affects me most painfully. I mean the moral influence of a spectacle such as the evidence in this case presents, and its effects on the public mind, out of these doors. The frequent recurrence of these enormous offences is an evil symptom of the times in which we live. Within a few years the community has been horror-stricken by a series of crimes, each in a sort of bloody progression more atrocious than its predecessor. In our own Commonwealth we have heard of wholesale butchery which consigned a sleeping family, parents and infants slumbering in unsuspecting security, to a common and a ghastly grave. At no very great distance from us in another state, the dwelling of an aged and respectable citizen was entered in the night, and in the midst of a populous town, at an hour which daring and accomplished villainy only would have selected, his murder was consummated—a murder too that formed part of a series of contemplated outrages on the security of the citizens, and which was the result of a plan matured in gloomy councils, such as we read of only in romance. We are now pursuing an inquiry to end in disclosures quite as appalling, and, as I conscientiously believe, in an exhibition of moral depravity wholly unsurpassed. I do not pretend to trace all this to a cause. I do not pretend to see in it the evidence of any well defined and general deterioration of the times in which we live. It may be a malediction which, like the mortal pestilence that now scourges the old world, and like a dark cloud threatens us at a distance, it is not permitted to trace to an earthly source. But it is no very refined speculation to believe that these great crimes have a productive tendency in themselves—that one gives countenance to another by some imperceptible and insensible connexion, and that public feeling becoming seared and callous by absolute familiarity with developments of horror, loses its sensibility to the essential loathsomeness of crime. Through some mysterious and unnatural agency we lose sight too of that loathsomeness in its enormity, and while we look with unqualified disgust at the pitiful convict of the quarter sessions, clothe the criminal with the garb of deeper crime—make him the highway robber who murders the passenger he robs, or the midnight assassin who, with courage worthy of the best of motives, boldly risks detection in a crowded city while he consummates his purpose—or, to bring the case still nearer home, make him the adulterer compassing the destruction of the only individual that lives to check the full career of sensual license, and the sentiment is changed at once. It is at least no longer contempt—no longer loathing. The object of feeling is exalted, and the distorted vision of humanity directs to the bad eminence of crime a gaze, I had almost said of admiration. We all remember the feelings produced even at this distance by one of the murders to which I have referred. Yet I question much whether it was the feeling which the moralist would wish to see. Amid all the awe and horror that followed it, when the whole community was convulsed with terror at the disclosure of the plan of blood, no one despised the murderers—even the procurers of the crime, those who stood by while bolder hands completed it, were placed by the enormity of their guilt above the level where crime in any of its forms should rest. Yet, Sir, compare that crime with this—compare that spectacle with this, and, I say it confidently, in this respect as in most others, it is far inferior. There, there was perfect unity of design and purpose. It was a purely money making murder. The wages of blood was gold. No feeling was involved but the appetite for plunder. But here, the impulses and the motives were complicated, and of different orders. Money here, as in the other case, was no doubt an inducement, but not the only, perhaps not the principal one. If this prisoner be guilty, her guilt is of a varied hue. It is guilt produced by impulses that claim no kindred. It is the guilt which fiction and poetry have embalmed. It is guilt in its most dangerous, because in its least repulsive form. If Mrs. Chapman administered this deadly potion to her husband, the paramount object, at least in the public estimation, will seem to be the uncontrolled indulgence of passion, sensual and animal passion no doubt, as developed in her, but the same passion which, when refined, burns in the purest bosoms—she doubtless called it *love*, and love in one of its least ethereal forms perhaps it was. I speak now of course, Gentlemen of the Jury, of the public estimate of this prisoner's motives, for before I close, I hope to be able to trace distinctly the action of other impulses. I refer now chiefly to the casual impression on the public mind. Her companion in guilt, grovelling as his views may have been, is raised by his association, and the community is now looking with deep and far from contemptuous interest, on the progress of the inquiry we are engaged in making. Is it too much, Sir,

to say that crime, thus exhibited, is dangerous in its tendency, and that there is a pernicious influence in the recurrence of these high-handed atrocities. What is the lesson which they teach? That crime deserves and will meet its punishment? Yes, Sir, but that lesson is faintly told. They teach by experiment, by narrative, that crime may be successful. They tell the heir, in accents to which human weakness is too apt to listen, that there is a short way to the rich man's coffers—they teach the wife in whose bosom the flame of impure passion brightens, that there is a summary mode by which she can remove the only check to licentious indulgence, and suggest means and materials for the completion of the gloomy edifice of crime. I do not believe that an effect such as I have described, is well defined and perceptible now. Perhaps it does not exist. We are too young—we breathe a pure, untainted atmosphere—our institutions are new—they favour no criminal indulgence such as I have referred to, but I dread it as a future, as a possible evil. I look to the records of our criminal jurisprudence with deep solicitude. I look to the recurrence of atrocious crime with no unreasonable, no merely speculative apprehension. There is a fixed principle of human nature on which that apprehension rests. It is developed in the morbid interest with which public attention is directed to the proceedings of the high criminal tribunals. It is illustrated by the anxiety all classes seem to feel to become familiar with details of guilt, and in another form and operating on less refined materials, it leads multitudes to gaze in curious wonder at the agonies of the felon on the gallows. What I have said, Gentlemen, I say under the influence of feeling, a feeling that has been generated and cultivated by my personal connexion with this cause, and which I feel myself utterly unable to repress.

In submitting this case to you on the part of the Commonwealth there are one or two matters of preliminary consideration to which it is necessary to call your attention. The charge made in this indictment is distinguished by marked peculiarities, which, as I shall have occasion to show the Court, have an important practical operation on the decision you are to make, and the mode in which you are to arrive at a result. Murder by poison is an extraordinary crime in point of novelty—it is so also in point of judicial operation. If you were now trying a case of murder by violence in one of its usual forms, there would be various and complex questions presented to you, all of which you would have to determine. You would not only have, from the evidence, to infer the fact of killing, but you would have to infer the motive which instigated the prisoner to the commission of the crime, and making the double inference you would be obliged to graduate the offence on the scale which the peculiar law of the land has prepared. But in a case of murder by poison, where, as in this case, there is no allegation of mistake, the only question for the jury is a question of fact. If the character of the defence puts at issue the fact of poisoning, it is of course the exclusive issue. Murder in the first degree, by our statute, is "murder by poison, lying in wait, or any other kind of wilful and deliberate killing;" and the law is, that in all cases where there may be doubt as to the motive, the prosecution must show that it is wilful and deliberate. Not so in the two specified instances where the act implies the motive. If we prove the poisoning, we prove the malice, unless by the admission of the fact and the allegation of mistake, the question is made one of intention, when, as in other cases of doubtful motive, the burthen of proof falls on the Commonwealth. There is no such issue tendered to us here. The election of the prisoner is made. We are to satisfy you simply that fatal poison was administered by this prisoner, and if we shall be able to do so, the matter of motive is yielded to us. The allegation on each side is then distinct and specific, and the question for your decision is simple and well defined; did the prisoner administer the poison to her deceased husband as laid in this indictment? If she did, it not being pretended to be done by mistake, it not being denied to be done wilfully, she must be convicted. If on the other hand you believe he came to his death without any agency on her part, then she must be acquitted.

As a consequence of this, you will remember that the guilt of this prisoner, if it exist at all, admits of no gradation. I mention it as matter for serious consideration, that in deciding this issue between the Commonwealth and the prisoner, there is no middle course for you to pursue, and you must decide between the deep guilt charged in this indictment and the perfect innocence alleged in the prisoner's plea. There is no murder in the second degree, no manslaughter, no other

of the kinds of criminal homicide known to the law on which you can fall back. I have no idea, Gentlemen of the Jury, that, even if you had the opportunity, you would shrink from your duty, be it never so painful; for I have seen enough since this cause commenced, to satisfy me fully, not only of your intelligence, but of your firmness and your determined sense of duty, but I refer to this peculiarity of the crime charged in this indictment for another purpose. There being under this indictment no alternative to guilt, actual and technical, but innocence, pure, unblemished, untainted innocence, it is immaterial in which form we present the question: is the prisoner innocent or is she guilty? If she is not guilty, she is perfectly innocent. If not wholly innocent, she is guilty to the full extent of the dark and ghastly crime laid in this indictment, and you, exercising your best and most dispassionate reason, are to say whether this grave accusation, deliberately and solemnly made, is true or false, and whether the stains which have been fixed on the character of this prisoner are to be removed, and her reputation is to be left, as your acquittal will leave it, without a blemish. Let me not be misunderstood. In presenting this question between perfect guilt and perfect innocence, I fully realise the limits within which inquiry must be restricted. I have no wish, even if I had the right, to open the record of the prisoner's life to ask you to decide merits unconnected with the issue before us. If we should travel beyond this line, it will only be on the track "of character" which the prisoner herself has pointed out to us. Even the dark catalogue of crime, which the few weeks that preceded and followed the catastrophe at Andalusia, presented, except as illustrating the probability of the commission of the final act, is no concern of ours. It is not a conspiracy to cheat that we are trying now. It is not the violation of the right of property—it is not hourly, daily, habitual adultery—or shameless prostitution, that we are trying. If we were, judgment would sooner have been pronounced, and we should be spared the pain of listening to the oft told tale of the inefficacy of circumstantial evidence. It is a well defined charge of a specific offence, of which, on the testimony now adduced, we ask you to pronounce this prisoner guilty.

My colleague told you in opening this case, on the part of the Commonwealth, what we expected to prove. It now becomes my duty, in technical language, to sum up the evidence, or in other words, to tell you what we think we have proved. In doing so, it is my intention to present such a narrative as will recall to the mind of the Court and Jury, all the material facts of the case, and place before them, in a condensed form, the amount of the testimony we have submitted. I wish to be considered as of course under the correction of the counsel and the Court, and as being actuated by no feeling but a sincere wish to illustrate the truth, and to reach the ends of justice. Should I fall into error, it will be purely involuntary, and I ask it as a matter of justice to be at once set right.

This case involves the two questions, whether, in the first place, Mr. Chapman died of poison; and if he did, whether the prisoner, as a principal, had any agency in his death. They are perfectly distinct questions if the first be decided in the negative, but far from being so in consequence of the connexion of the evidence on the one point with that on the other, if an affirmative decision be made as to the fact of poisoning. In relation then to the preliminary point, I must be understood as denying emphatically that our reliance is on this, or on that isolated matter of evidence, and as entirely disclaiming any thing like sole dependence on what is called scientific evidence. We rest our expectation of bringing you to a conviction that the deceased came to his death by an unnatural process on the accumulation of results of very various kinds. Such and so strong are those circumstances leading to this conclusion, that the prosecution might safely abandon all their scientific testimony, and, if we were disposed to yield this part of our case up to the consuming wrath of the counsel for the prisoner, we might securely do so. What the effect of that portion of our evidence however is, how corroborative it is in every particular, I propose presently to show. What I mean now is to disclaim the idea that it is our sole or even our principal support on this part of the case, and to resist any dexterous attempt to make us appear to depend exclusively on any single portion of the testimony, be it scientific or not.

The great leading circumstance in this inquiry into the cause of Mr. Chapman's death, is, that on the day before he was taken ill, an individual living in his house, on terms of familiarity and confidence, purchased, under a false pretext, a quantity of arsenic at a drug store in Philadelphia. What the relation of this dealer in poi-

sons was to the prisoner, and what light this circumstance throws on the alleged concert of the parties, are questions which it is not my intention to meddle with now. Again on a day subsequent to that on which the poison was purchased, and on the day when it is said to have been administered, a number of poultry of different kinds died suddenly, whilst feeding within the premises of the deceased, while none of those which were prevented from having access to the same place were affected. I certainly do not give to this fact any disproportionate importance when I refer to it merely as one of the items constituting the aggregate on which we rely. By itself it might merit some of the ridicule which doubtless will be thrown on it. In connexion, however, with other less ridiculous matters, it rises beyond the low range of sneer and sarcasm, and acquires an importance which I believe has already been realized. That young ducks, such as these are described to have been, should die suddenly and inexplicably, and yet without the agency of poison, I find is common, and is an event with which every farmer is familiar. That chickens should suddenly drop down and die without a visible cause, is not, it is conceded, quite so usual. But that of all the poultry of Mr. Boucher, the witness who proves the fact, great and small, chickens and ducks, only those should die which had been within premises that were infected by the presence of a poisonous material, and that too on the day when it is clearly proved poison was in circulation, are matters of coincidence, that are worthy of consideration on your part, and explanation on the part of the counsel, or at least something more than the sarcastic sneer that has with difficulty been repressed whenever they have been mentioned. I mention it as a circumstance of no trifling moment, tending to show that the poison which was purchased by Mina, at Mr. Durand's store in Philadelphia, on or before the 16th June, had, on Tuesday the 21st, found its way to Andalusia. I think I ask for it no higher import than it deserves.

Keeping these facts distinctly in view, especially that of the purchase of the poison, I will now ask your attention to the medical and scientific evidence. And here, gentlemen, I feel the embarrassment which I hope I share with you, arising from the consciousness that I am walking in what are to us, unaccustomed paths. I feel that I am discussing subjects of which I cannot be supposed to have accurate technical knowledge. We are none of us either chemists, or pathologists, or anatomists. The officers of the prosecution, furious as may have been their zeal in this cause of prejudice, have not had the advantages of instruction such as our friends on the other side appear to have enjoyed. But sir, thanks to the simplicity of science now, this part of the inquiry requires no special illumination. There is nothing which, on principles of common sense, may not be easily understood and as easily explained. With the details of experimental processes I do not know that we shall have to meddle. It is to simple and perfectly intelligible results that I shall ask your attention.

The truths of science are eternal and immutable. The principles which are the objects of scientific pursuit never alter. The processes, and the modes of operation by which those principles and truths are to be ascertained, vary, if not with the day and the hour, at least with the ages and generations of philosophy. Such has been the case with the science of toxicology, and especially with that branch of it which relates to the vexed question, what amount of evidence will justify a belief of the presence of poison. To-day caution, and to-morrow carelessness, may sway the mind. One amount of evidence was requisite yesterday, and another, either greater or less, will be required to-morrow. In the well known cases of Miss Blandy, and Kairn, and Ogilvie, cases which recent science might repudiate, but which are full of application here, the amount of evidence to make out the actual presence of poisonous material, would in later times be regarded as utterly inadequate. Recognising what is contended for here by the prisoner's counsel, the fallacy of any portion of evidence short of that of reduction, there is really no justification of these convictions. They were judicial murders. Yet I take it to be unquestionable that the fact of poisoning in each of those cases was made out to the satisfaction of every reasonable mind, although the scientific certainty was not attained.

To the age of imperfect knowledge, such as it was when these trials occurred, succeeded one of far greater caution, as well as far greater skill. A process had been devised, perhaps as a matter of ingenious science as beautiful and perfect as any in the circle of discoveries, by which, from the decaying structures of the animal tissues, however much disguised by organic matter, the most minute por-

tion of metallic poison could be sublimed, and in spite of any obstacle which disease and decay might interpose, the subtle and fatal material could be reproduced. In the triumph of this discovery, all previous modes of investigation were at once discarded. All and each were pronounced fallacious. Observation of symptoms was worthless—examination after death was deceptive—chemical reagents sank from their rank as detectors, to become mere purblind guides, and then the doctrine was exclusive, for which the counsel for the prisoners and their witnesses so zealously contend now, that unless the mineral poison is reproduced, there is no evidence of the existence of the poison. It was under the influence of this opinion that the conviction of Kesler, in the State of New York, which has been read, was so vehemently denounced. But it was in consequence of the inculcation of other, and I think safer and sounder doctrine, that the punishment of that criminal was advocated and sustained. That the opinion that reduction is the only evidence of poison is not the received doctrine of the present day, I will undertake to show presently, when I come to speak of the evidence on this point on the part of the prisoner. I admit it to be the best evidence.

I am willing to go further than I suppose will be required of me, and to concede not only that this test or that test, I do not use the word in its technical acceptation, is inconclusive; but to deny that even the reproduction of the arsenic in the form of a metallic ring is conclusive for the purposes of evidence here. If a metallic ring were produced before you and submitted for your inspection, would it be in your estimation, unused as you necessarily are to such examinations, conclusive? Certainly not. You could not pretend to say that because you saw something glittering on the inner surface of a glass tube, that *it* was arsenic, or that arsenic had been in the place it came from. Still further, if individuals supposed to be competent judges, were to pronounce that ring to be metallic arsenic, would it be conclusive? As certainly not. You would then be told that an arsenical ring, like an aliaceous odour, might be mistaken, that the eye might be deceived; and witnesses would be examined before you to show that errors on this point too had been, and might be committed. In short, sir, science yields nothing that can be considered conclusive for the purposes of criminal justice. Reproduction of the arsenic, had it been effected here, would only have added a link to what was strong enough already, and you would have been told then, as I believe you will be told now, that if from the accumulation of results, symptoms, post mortem appearances, however partially examined, chemical experiments, however imperfectly performed, aliaceous smell, or other things, you are satisfied that the individual died of poison, it is abundantly sufficient. I deny that any one chemical result would be conclusive, or is essential.

I have said, and now repeat, that the cumulative evidence on which this part rests, arises from a state of facts which can be accounted for on no other principle than the presence and action of a poison. What is that evidence? An individual in the house of the deceased purchases a quantity of a deadly poison. The death is caused by a sudden, inexplicable, and violent disease, resembling, to use no stronger word, in its character the disease produced by that very poison. After a lapse of time, the body is disinterred, and presents appearances corresponding with those said to be produced by that poison. A chemical examination of a portion of the body is made, and results, whether faint or decided it is not material now to inquire, are attained, indicating the presence of the same poison. And in addition to this, we have the opinions of skilful physicians and chemists, reluctantly and deliberately expressed, confirming fully the views which we ask you to take. In this chain of evidence there is all that scepticism can ask, and far more than unbiassed reason will require.

First, then, as to the symptoms—are they not the symptoms of poisoning by arsenic? Precisely so. I am of course not to be understood as saying that every symptom of arsenical poison was exhibited here. No two cases of the kind corresponding in detail, no one case ever has occurred in which all observed symptoms appeared. But what I mean to say is, that there was no symptom exhibited in the case of Mr. Chapman, but was a symptom of disease caused by this species of poison. The Jury will probably recollect the symptoms as detailed by several of the witnesses, and though reluctant to trouble them with reading authorities, I will select from an approved one the best summary of the general symptoms I have been able to find. It will then be for them to make the requisite comparison. I read from *Christison*, 216. “Soon after the sickness has begun, or about the same time,

the region of the stomach feels painful, the pain being commonly of a burning kind. Violent fits of vomiting and retching then speedily ensue, especially when drink is taken. There is often, also, a sense of dryness, heat and tightness in the throat, creating an incessant desire to drink; and this affection of the throat often precedes the vomiting. Occasionally it is altogether wanting, at other times so severe as to be attended with fits of suffocation, and convulsive vomiting at the sight of fluids. Hoarseness and difficulty of speech are commonly combined with it. The matter vomited, as in other cases of long continued vomiting, is greenish or yellowish; but sometimes it is streaked or mixed with blood, particularly when the case lasts longer than a day. In no long time after the first illness, diarrhœa generally makes its appearance, but not always. * * * * *

In other cases the great intestines are hardly affected at all. About this time the pain in the pit of the stomach is excruciating, and is often likened by the sufferer to a fire burning within him. — The general system always sympathises acutely with the local derangement. The pulse commonly becomes very small, feeble, and rapid, soon after the vomiting sets in; and in no long time it is often imperceptible. This state of the pulse is naturally attended with great coldness, clammy sweats, and even lividity of the feet and hands. — The countenance is commonly collapsed from an early period, and almost always expressive of great torture and extreme anxiety, the eyes are red and sparkling," &c.

Now what were the symptoms here, and were they not all, with the exception of deafness, which may be referred to paralysis, identical with the symptoms which are exhibited in cases of arsenical poisoning? Anne Bantom, Fanning, and Boucher, who saw the deceased at different times from Monday till his death, speak of him as vomiting, or rather attempting constantly to vomit—they describe spells of agony of this kind of considerable duration in which he seemed to suffer intensely—the attempts to vomit seemed to increase when any thing in the shape of liquid was given—he had violent spells of restlessness—he complained of misery at his stomach—he said most of his sickness was at his stomach—he had a burning heat at his stomach, which appeared to him just like fire. Dr. Knight, who saw him for the first time on Tuesday evening, describes him as suffering under a burning pain at the pit of the stomach, of which the action was violent—considerable vomiting and purging—extremities cold as far as the knees—mouth dry and considerable thirst—at times, towards the end, delirious without fever—pulse small and tremulous, and his countenance evincing the greatest anxiety. Dr. Plullips, when he saw Mr. Chapman on Wednesday, found him, as he has told you, *in articulo mortis*. His extremities were cold, clammy, and shrunken, his skin collapsed—his hearing gone, with which the witness was particularly struck—the countenance evinced a good deal of anxiety, and he seemed desirous to know whether he should or should not recover—his senses were much impaired—and a short time before death there was an involuntary discharge per anum of a bloody serum.

These are the symptoms of this case of violent disease and death, and without now referring to the opinions on them, put in evidence before you, I ask a comparison between them and the symptoms of arsenical poisoning given in the authority I have cited, as well as so satisfactorily stated by Dr. Coates, when examined in this cause. That they are not exclusively symptoms of poisoning I might concede. It is quite immaterial for the purposes of my argument, whether they are or are not. They are symptoms analogous, strictly so, to those produced by poison, and whether fallacious or not, so far, they are important.

Of the appearances after death I may say the same thing that I have said of the symptoms during life. They are precisely such as the action of this mineral poison produces. Before interment there were three very significant phenomena in the body which are distinctly in evidence before you. I refer to the livid spots, the preternatural rigidity of the muscles, and to what may relate to the very period of dissolution, the bloody discharge per anum. To the latter, as indicative of a local inflammation of the rectum, known to be a distinctive symptom of arsenical disease, considerable importance has been attached during the examination of the witnesses. The existence of the discharge itself has been doubted, but is, I think, beyond a question. Dr. Phillips distinctly, and of his own accord, specified it as one of the remarkable symptoms of the case, and one of those for which he was unable to account. The other witnesses, not professional men, who were present, if they do

not recollect, certainly do not disprove it. The peculiar pale colour and healthy appearance of the larger intestines, as proved by Dr. Hopkinson and Dr. Coates, show that this discharge, if it existed, resulted from a local inflammation.—Dr. Knight, and two other witnesses, prove that immediately after Mr. C.'s death, livid or rather purple spots, appeared on different parts of the face and head—that the lips and nails assumed a dark blue colour, and that there was decided and remarkable discolouration behind the ears, over and below the eyes, and in other places. Mr. Boucher, a witness who states that he has been at different times in his life in the habit of laying out dead bodies, expressly proves to you that within a time that appeared to him unusually short, according to the evidence in less than two hours, the muscles of the deceased had become singularly rigid. I need not trouble you with a reference to my notes on this point. Mr. Chapman died between three and four o'clock, A. M., the days being then at their greatest length, and it was about daylight that the body was laid out, and the rigidity observed by the witness.

Among the authorities put in evidence this morning by the counsel for the prisoner, there is one to which I will refer the Court on this last point. I refer to *Jaeger's Inaugural Discourse on the Effects of Arsenic*, referred to by Mr. M'Call, where I find these appearances mentioned as characteristic. I read but a sentence or two. "In whatever way arsenic was applied, Dr. Jaeger observed no change upon the skin except the paleness and *some blue spots* nine hours after death, upon the girl already mentioned" (a girl of twelve years of age, poisoned by a solution of the black oxide of arsenic.)

"The inflammatory appearances continue, though in a less degree, through the small to the vicinity of the large intestines, which is generally free from them, and only contains an increased quantity of effused mucus; but the rectum again is inflamed, and its inner coat swollen and softened."

"The voluntary muscles were constantly and universally *rigid*; the limbs sometimes bent, but generally extended."

"In three cases the body is mentioned as having been discoloured or marked with *livid spots*; in one even blistered; and one was highly fetid." *Edinburgh Med. Journal*, 1811, p. 80.

I come now, Gentlemen of the Jury, to the appearances on dissection. I regret that I am compelled to dwell upon these details. It is, however, the more necessary, as this part of our case has been made the object of the most vehement attack. Something too, much indeed, is due to the witnesses who have been examined on this subject. The examination made by Dr. Hopkinson has been decried as a partial and an imperfect one. I do not know that it is necessary for his vindication that I should deny that it was so. He himself, with a candour and frankness that I am sure was properly estimated by all who listened to him, admitted that it was so. But what then? Are the morbid and characteristic appearances which were exhibited, to be disregarded, because every fibre of the dead body is not laid open before you? Is that which is seen and known to be treated as worthless, because all is not seen and known? Is active inflammation of the stomach and alimentary canal, to pass for a healthy appearance, because the brain, and the heart, and the lungs, were not inspected too? Suppose for a moment that the brain, or the heart, or the lungs, or any part of the body that was not examined, had presented traces of the operation of chronic disease. Would the appearances that *were* exhibited, illustrated as they are by the symptoms, be less significant? Unquestionably not. Would congestion of the brain, or ossification of the heart, or the rupture of a blood-vessel, account for symptoms and appearances like these? I speak with diffidence and under correction, but I should think they would not. *We* have the greatest reason to regret that the examination terminated where it did. Discoveries might have been made which would have strengthened, none could have occurred that would have weakened the case of the prosecution. So far, however, as it goes, it is perfectly satisfactory.—(Mr. Reed here referred to *2 Beck, Med. Jurisp.* 192., and then went into a detailed examination of the morbid appearances as proved by the witnesses in this case.)

Connected, however, with this point, it is proper to refer to the remarkable preservation of the body of the deceased. It is in evidence that Dr. Hopkinson's examination did not take place till exactly three months after interment, yet after this lapse of time, contrary to experience, all the diseased parts of the body are found in a state of preservation, while the extremities, which are the portions least

liable to the effects of the alleged disease, are discovered in a state of ordinary decay. Of every professional witness that was examined, I asked the question as to the comparative influence of decay on healthy and diseased parts of the body, and from all I received the answer I anticipated, that diseased portions in ordinary cases putrefy first. The only exception to this rule that we have suggested to us is the case of inflammation produced by the action of arsenic. That material is said by all the witnesses to be believed to have preservative powers. This is another coincidence, to be received for what it is worth, of which we claim the benefit. An attempt has been made to attribute the unusual preservation of this body to natural causes, and more than one witness has been examined here to show, what no one, I believe, dreamed of disputing, that the character of the soil and other circumstances will promote or retard decay. It is remarkable, however, that though we have been told a great deal here about the probable character of the soil seven or eight feet beneath the surface, in All-Saint's church yard—of its dryness—its preservative tendency, and so forth, that the fact is clearly proved by the physicians who disinterred the body, (I refer particularly to the evidence of Dr. Coates,) that there was actual moisture in the grave, and that the head, which was exposed to its action, was in an advanced stage of putrefaction.

I do not know that it is necessary for me to meddle with what is represented to be the disputed point of the antiseptic powers of arsenic. It is no immaterial concession to us that it is a disputed point. There are, however, one or two points of detail connected with this supposed preservative process, to which it is not altogether immaterial to call the attention of the jury, bearing in mind throughout, that the argument now offered depends on an accumulation of analogies between this case and others of admitted poisoning. Independently of the general state of preservation, there were in it other peculiar appearances not undeserving a passing remark. Dr. Hopkinson, whose experience as a demonstrator of anatomy is very great, and who has, as he told us, dissected several hundred subjects, was struck with the remarkable firmness of texture and dryness in the case of Mr. Chapman. He says, in his evidence, that portions of the viscera seemed disposed rather to dry than to putrefy, and that it was as if it had been hung up to dry. He adds, distinctly, that he had never observed such dryness before. In the investigations that have been made abroad, in relation to the antiseptic properties of this mineral poison, this appearance of dryness has invariably been observed. I may refer the Court and Jury on this subject, to the cases enumerated by Christison and Beck. They are of peculiar interest as illustrating this part of the case. (Mr. Reed here read from *Christison*, 255, the case of the widow Ursinus and others, both of suspected and known poisoning, where the preservative powers of arsenic had been tested and established, in all of which the texture of the parts was firm, and the dryness exhibited. He cited also *2 Beck*, 194, in note, where another case of a similar character is referred to.)

As properly belonging to this part of the evidence, and as forming a part of this chapter of coincidences, I will here refer to the only remaining circumstance of this post mortem examination. It furnishes an analogy which was casually mentioned by the witnesses, but which seems to me, on the score of its simplicity alone, to be not unworthy consideration. The Jury will recollect what I refer to, when I mention the resemblance of the odour proceeding from the detached portion of Mr. Chapman's body, and that produced by the stomach and intestine from the Alms-house, into which Dr. Mitchell had injected a quantity of Fowler's solution. Both Dr. Hopkinson and Dr. Mitchell observed a peculiar smell in this case, which neither recollects having met with before, and which, you will remember, was compared by the former, to that of "Scotch herring." Dr. Mitchell having procured a portion of a stomach and intestine for the purpose of forming some analogous experiments, injected a quantity of arsenic, and left it, in consequence of other engagements, for a month or two in his laboratory. On examining it after this interval, he found it had *not putrefied*, and that it yielded the *same peculiar smell* he had observed in Mr. Chapman's stomach—a smell which the Doctor described as new to him, and which he never remembers to have met with but in these two cases.

I come now to the only remaining set of facts in evidence on this part of the case. I mean the results of the chemical analysis by Dr. Mitchell and Mr. Clemson. I have already expressed my views incidentally in relation to the evidence which such

inquiries ought to furnish, and how inconclusive, in the strict sense of the word, they must be even when most successful. In the same spirit I am disposed, following the example of the witnesses themselves, to concede that, with a single exception, the chemical results were unsatisfactory. Certainly no visible reproduction of the arsenic took place. I am not altogether satisfied with the peremptory abandonment of the preliminary experiments by the witnesses who made them, or the unqualified denunciation of them by the solitary witness for the prisoner, who, with characteristic quickness, saw their utter failure at a glance. The chemical reagents, if they gave no strictly characteristic precipitates, at least produced tints in the suspected fluid, not dissimilar from those which were looked for. But as they are given up on all hands, I yield them too; and giving to the prisoner the benefit of all these failures and defects, I proceed to that part of the analysis which did not fail. I mean the production of what is called the aliaceous smell. And here too I am disposed to give the counsel the advantage of the partial concession that this alone is not a sufficient indication of the presence of arsenic. I speak now as a lawyer judging of the worth of evidence, not as a scientific man determining what, in comparison with the solemn issue of this inquiry, may be called an abstraction. But it is not alone that we offer this result for your consideration. It is in conjunction with others far more essential that we offer it. And it is in conjunction with other matters of evidence in this case, of more apparent weight, that, if I mistake not, it will acquire an importance, in a scientific point of view, which perhaps, as a test, it never had before. As presented to you it involves but one simple question, whether there is or is not a distinctive smell in the fumes of arsenic, and whether the witnesses were or could be mistaken in it. Mr. Clemson, who first perceived it while attempting the process of reduction, thinks he cannot be mistaken in it. Dr. Mitchell, who also perceived it, tells you he has never been able to imitate it, and that every substance which is said to evolve it, produces what to his sense is widely dissimilar. He told you too what was the ground of his confidence in Mr. Clemson's accuracy on this point, and narrated the manner in which he had tested it. I need not refer you more minutely to what was said by the witnesses on this head, nor need I pay to the gentleman on whose evidence this part of the case rests, a tribute of praise which, as from me, to him would be of little value. Inconclusive as this odour recognised by Mr. Clemson has been said to be in itself, I have referred to it, and rely on it now, as forming no insignificant element in that accumulation of evidence on which this case depends. If the manipulation had been perfect—if the chemical reagents had thrown down precipitates pronounced to be perfectly and strictly characteristic by all who saw them, Dr. Togno inclusive, it would undoubtedly have been better, particularly as a matter of science. If the tube which Mr. Clemson held had not been broken by the heat of the spirit lamp, and the volatilised metal, instead of escaping through the apartment, had been condensed in a ring of metal on the tube, and that ring had in its turn been tested, it would have been better still. But in the absence of all these desirable, though, as I again assert, not essential results, we rely, and rely securely, on the result which was attained, and which, corroborated as it is by every other circumstance in this case, is all-important and amply sufficient. Were I disposed to depart from the line I have prescribed to myself, I might here notice the manner in which the counsel of the prisoner have attempted to invalidate this part of the evidence, by the production of a single scientific witness before this Court. I waive it for the present. When I come to notice that gentleman's evidence in its appropriate place, I will endeavour to pay to it too the tribute it deserves.

The Commonwealth has not, however, rested its case here. In addition to these facts and details, on which you are asked for yourselves to pronounce a judgment, we have put in evidence a series of medical and scientific opinions on the same state of facts which deserve, and I am sure, will receive great consideration at your hands. These too are opinions not only cautiously and deliberately formed, but most reluctantly expressed here. There are, on the part of the Commonwealth, no amateur witnesses. It is but justice to the gentlemen who have been examined on the part of the prosecution, to say, that they have come here only because they have been compelled to do so under the process of this Court, and that the duties which they have so conscientiously performed, were wholly unsolicited by them. For the manner, the cautious and delicate manner, in which those duties were performed, I need only refer to your recollections. In those opinions thus given in evidence, it is

most remarkable that there is no discrepancy. Some had fewer opportunities of observation than others. But all in language more or less distinct, unite in the result to which we ask you to come on all the evidence, that William Chapman died of poison.

The attending physicians considered it a case of mysterious disease. Dr. Phillips told you that at the time he was not able to account for the death, and that he is not able to do so now. He saw the deceased for the first time on Sunday, the 19th, and then regarded his indisposition as trifling. When he saw him next, however, on Wednesday, 22d, to use his own words, he "was very much astonished" to find him literally in the agonies of death. Dr. Knight, who attended him from Tuesday till he died, says as distinctly, "he can on no known principle account for his death."

Dr. Hopkinson, the next medical witness that was called, says, that in his opinion, founded on what he observed on the exhumation of the body, and from what he had heard of the symptoms, the deceased came to his death in consequence of an inflammation of the stomach, caused by the action of a violent substance such as an irritant poison. Dr. Coates, giving his reasons also in detail, arrives at the same result, and states to you his deliberate conviction, that he died by the action of a corrosive or irritant poison of an arsenical character, and on his cross examination strengthened that opinion in a forcible manner, that none of us can have forgotten. While he admitted that it was possible the death was a natural one, he distinctly said the possibility was so slight as not to deserve examination, and that the proof of the presence of poison, independently of the chemical analysis, was the strongest possible proof the case admitted of. He added, that it was fully adequate to satisfy him as a medical man in a case where life or death was involved in the result.

I cannot, gentlemen, close my remarks on this part of the evidence more appropriately, than by reading to you from my notes the answer given by the last medical witness (Dr. Mitchell) on the part of the prosecution, to the inquiry as to his opinion of the cause of Mr. C.'s death. Nor can I do that, without saying a single word in relation to the witness himself. What I say is not the mere language of friendly compliment, though I am happy to call the gentleman I refer to, one of my personal friends, but is a tribute of admiration, sincerely felt, and now most willingly expressed, for his testimony, both as to matter and manner, when examined at the bar of this Court. He came before this Court a reluctant witness. He came here, as was manifested by every word he uttered, peculiarly sensitive to the delicacy required from a mere witness to opinion. All he said was scrupulously weighed before it fell from his lips, and no opinion was uttered but was fully approved by his best judgment. Their Honours and you will, I am sure, never forget the nice sense of propriety, the refined delicacy which induced the witness almost peremptorily to decline answering a question from the Bench, because he seemed to fear that the answer might, in consequence of extrinsic circumstances, acquire a force with the Jury which, as a matter of science, he thought it really did not deserve. For myself I will say, that though I believed the answer to be material to the prosecution on this point of science, I had, in common with the Judge who asked the question, too much respect for Dr. Mitchell's delicacy to press the inquiry. It was highly honourable to him, and if I mistake not, left an impression not easily to be effaced. Conscious as I am that I should injure the force of such testimony by any summary I could give, I will in conclusion here read that portion of Dr. Mitchell's evidence which relates to his opinion of the cause of Mr. Chapman's death. (Mr. Reed here read the testimony of Dr. Mitchell, concluding with the following declaration):— "After a careful and considerate view of the whole ground, I am unable to resist the conclusion that William Chapman died because of the presence of arsenic in his stomach." "To this conclusion," adds the witness on his cross examination, "I came most reluctantly."

Such, Gentlemen of the Jury, are the opinions which the policy of the law permits to be put in evidence before you. Such the opinions by which we ask you to be guided in forming your judgment of this part of the case. They are entitled on all accounts to high consideration. They are the opinions of skilful and experienced men. They are opinions deliberately and cautiously formed, and, as I have before said, most reluctantly expressed here. There is in them nothing of the quixotism of theory—not a taint of metaphysical and speculative paradox. There is none of the mystery of science about them. Plain and intelligible in themselves, they have been clearly and intelligibly stated to you. There is no variation or contradiction

among them, and thus harmonious and consistent, are entitled to the consideration which I am sure, at your hands, they will receive.

But further than this, you will bear in mind distinctly that the opinions of the scientific witnesses for the Commonwealth are unimpeached. Yes, sir, with the exception of a single discrediting witness on the part of the prisoner, whose evidence I will here examine, wholly unimpeached. But two medical witnesses have been produced on the side of the defence; but one of them has been examined in court. Of Dr. Bache's very cautious, and, as I sincerely believe, conscientious deposition, I shall only say, what I do say most emphatically, and subject to correction hereafter if I am in error, that in no single particular of fact or opinion does it discredit any of the witnesses for the Commonwealth. All that Dr. Bache says, is said with characteristic caution, and all may be safely admitted to be sound doctrine, without weakening in the slightest degree the evidence presented to you on the part of the prosecution. With this remark I dismiss it. Dr. Togno, however, the principal witness for the prisoner, has given far less pretending, and, if credible, far more important evidence. His hand seemed to be against every one, though I can assure him no hand has been willingly raised against him. I have no recollection of any single point of agreement between him and any of the medical witnesses previously examined, and in this collision we have forced upon us the unpleasant duty, for which perhaps we are little qualified, of deciding who is right and who wrong. I regret sensibly being obliged to say what may appear harsh and unkind of an individual, whom, like Dr. Togno, I have always met on the ground of courtesy and good will. But obtrusively adverse as his evidence has been, I have no alternative left to the utter abandonment of our own witnesses in the face of the Court and Jury, but plain speaking with regard to him. If Dr. Togno's scientific reputation is to fall a sacrifice, much as I may deplore it, the blame falls not on us. He is *felo de se*. If he has not actually inflicted the wound, he has supplied the weapon to adversaries whom duty makes unrelenting, and has pointed to the vital spot. He shall have the consolation of dying by his own sword. I have no right to say that this gentleman is a volunteer witness in this cause, because I presume the service of a *subpœna* can be regularly proved, nor am I disposed, even if his services and his stores of knowledge have been voluntarily tendered to the prisoner or his counsel, to take from him the credit of doing an unsolicited kindness to her or them. With his motives, whether chivalric or selfish, I have little concern. Of his conduct and his evidence I might say much more than I intend to say. He is a witness almost exclusively to opinion, and is produced with the avowed object of discrediting on every point the scientific opinions given by the Commonwealth's witnesses. I propose to judge him on his own evidence, and from his own authorities. If I can show to you a want of candour in his statement of what he actually saw, and positive ignorance on one of the most prominent points on which he proposed to have formed an opinion, I shall be satisfied. From his relation of what he saw in Dr. Mitchell's laboratory, it might be inferred that he took an active share, at least, in the inspection of the experimental processes which were in progress, and from what he told us of his examination of the stomach, which of his own accord he took from the jar where it was deposited, we were originally left to believe that the opinions which he gave us as to its condition, were founded on minute and careful inspection. Now, was this really the fact? So far from taking part in the experiments, or being consulted about them, so entirely did his presence pass without observation, that Dr. Mitchell does not seem to have been aware of it, and Mr. Clemson, when asked by the counsel, expressly says he has no recollection of seeing Dr. Togno at any time during the experiments. The fact is, that but for the recollection of the witness himself, the memory of his agency and presence on that occasion would be among the things lost upon earth. Yet from the glimpses that he had, he presumes to form, and under oath to give, opinions in which the counsel for the prisoner will ask you to place unbounded confidence. He takes the stomach and intestines from the jar, containing, as he thinks, spirit of wine, a matter about which I am inclined to doubt, examines it during the few moments he was there, and then comes before you with an opinion as to the character of the local disease which is intended to induce you actually to disbelieve that that viscus was the seat of inflammation at all. And so it might and would have operated, had not, on his cross examination, the question been asked, I think, by myself, "Would you, on so partial an examination as you made of that stomach, feel authorized to give an opinion which, as a man of science,

you would wish to be depended on?" The witness was compelled to give the answer—"I would not." Yet was not his sage speculation as to the condition of the stomach, and his explanation of its peculiar appearance, paraded before you as a credible and serious doctrinal opinion? Was there any voluntary apology for haste? Was there any diffidence in its enunciation? So much for Dr. Togno's candour. I have but a word to say as to his scientific accuracy. Dr. Togno comes here as the partisan of doubt, and the model of cautious observation. He sees confusion where others see clearly. He is insensible to the distinctive character of this disease and that disease, between which others have no difficulty in discriminating. To his eye, symptoms show nothing, reagents fail to convince him, pathology exhibits no adequate results. All to him is inadequate, and every word he uttered was meant to impair your confidence in the opinions of our witnesses, and to induce you to regard them as the careless results of imperfect and hasty examination. In his zeal in the cause of "reduction," all else was scorned. "If no arsenic is found"—I read his own words from my notes—"symptoms, post mortem examination, tests, all go for nothing. No poison, no poisoning—no cause, no effect." There is one source of uncertainty to which, were I disposed to be uncharitable, I might attribute all this confusion. I do not, however, I am sure, say too much, when I say that it becomes the advocate of scepticism like this, to be accurate in his premises. Conscious as I was, and as I am, that separately the chemical results in this case were unsatisfactory, I made it a point to ask each of the medical witnesses the question, whether cases of known poisoning had not occurred, where, in consequence of vomiting or other causes, no traces of arsenic were detected after death. From all, except Dr. Togno, I received the reply I anticipated, that many such cases had occurred. His answer I do not complain of, as not being sufficiently explicit. It was abundantly positive and prompt in the negative. For the sake of precision, I will use the words of the witness as I took them down.

"But one case that I know of is recorded of dying from arsenic, and no traces found after death, and it is not believed to be true. It is not believed by persons who cultivate medical jurisprudence. Orfila does not believe that case to be true. When a man dies from arsenic, arsenic is found. Christison also, in *every* instance, where he analysed the stomach of a person dying from arsenic, found the arsenic by reduction." We are indebted to the witness for being thus distinct, and for directing us to the authorities on which he relies. Availing myself of his suggestion, I read from *Christison*, 49, and will especially ask the attention of the Court and Jury to it.—"The next point to be examined under the head of chemical evidence, relates to the causes which may remove the poison beyond the reach of the inspector. Although poison be *not* detected in the body—the experimenter being supposed skilful, and the poison of a kind which is easily discovered—*still, it must not be concluded from that fact alone, that poison has not been the cause of death.* For it may have been *all* discharged by vomiting or purging; or it may have been *all* absorbed or decomposed. 1. It may have been discharged by vomiting and purging. Thus on the trial of George Thom for poisoning the Mitchells, held at Aberdeen, at the Autumn Circuit of 1821, it was clearly proved that the deceased had died of poisoning by arsenic; yet by a careful analysis none could be detected in the stomach or its contents; for the man lived seven days, and during all that time, laboured under frequent vomiting. In a remarkable case related by Dr. Roget, arsenic could not be found in the matter vomited twenty-four hours after it had been swallowed; in another which I have described lately in a paper on arsenic, although the person lived only five hours, the whole arsenic I could detect in the tissue and contents of the stomach did not exceed the fifteenth part of a grain; and in an American journal there is a still more striking case of a grocer, who died eight hours after swallowing an ounce of arsenic, and in whose body none could be found by chemical analysis."

In Orfila I find the following passage illustrative of Dr. Togno's position.—I read from *Vol. I. 209. Toxicologic Generale.* "Before concluding all that relates to the chemical inquiries for the discovery of the presence of arsenic, we must observe, that after the death of an individual poisoned by this acid, we may not be able to show the existence of the poison, with whatever care the analysis of the contents of the stomach may be made. Messrs. Jones and Wikely mention a case in the London Medical Journal, of a young woman who died after having taken a quantity of arsenic mixed with salt. The stomach contained about half a pint of a brownish

red fluid; the mucous membrane was inflamed and injured, partially adhering to the other coats, and partially detached from them. The portion that adhered was of an ashy colour, hard to the touch as if cauterised, and exhibited to the eye a white powder, which was nothing but salt. The œsophagus and mucous membrane of the intestines were inflamed; the rest of the viscera healthy. Every chemical experiment made in the hope of showing the existence of the poison, failed. It was evident that the patient, who had drunk plentifully of warm water, had vomited up all the arsenic. We are assured that all animals who have taken this poison dissolved in water, and who have had abundant vomiting before death, show no traces of it when the matter contained in the stomach is submitted to chemical analysis." With these "tests" of Dr. Togno's scientific acquirements furnished by himself, and which I am sure he cannot complain of my using, I leave his evidence to have with you all the efficacy it deserves.

This, then, is the accumulation of testimony on which the Commonwealth asks you to believe that William Chapman died of poison, as alleged in this indictment. If, with this amount of evidence, we have, to use the triumphant language of the counsel, (Mr. M'Call,) failed to satisfy you on this preliminary position, then the charge that this prisoner had any agency in that death, falls to the ground. But if evidence such as this is to be treated as inadequate—if all the testimony adduced is worthless and inconclusive, because an imaginary point is not attained, where certainty is supposed to dwell—if the cravings of doubt are still unsatisfied, then, Sir, under this new theory of evidence, we may despair of proving any thing hereafter. The halls of science and of justice may be closed. The career of useful discovery, of all inquiry after hidden truth, will be cut short. We have been told that "the native hue of resolution is sicklied o'er by the pale cast of thought." Sir, it is to the diseased vision of sickly *doubt*, such as is encouraged here, that the plainest objects are confused and indistinct. If evidence like this is inadequate, I repeat it, the march of truth is at an end, and we may as well at once resolve ourselves into that misty state of incredulity which sees nothing, feels nothing, believes nothing. A failure! The Commonwealth has failed to make out a case of poisoning! The *corpus delicti* is not made out! I ask the learned gentlemen who are to follow me, to make their assertions more specific, and less declamatory. While they rail so vehemently at the inadequacy of our evidence, and so unhesitatingly denounce this and that portion of it, I challenge them to account, by the agency of any natural cause, for the phenomena, I mean all the phenomena of this case. When they do that, I will consent to join the chorus of doubt. I will enlist under the banners of scepticism and uncertainty along with the counsel and Dr. Togno. But until that is done, I must be permitted to claim some consideration for the case of the prosecution, and to ask credit, full credit, for the evidence we have adduced. Something has been said about cholera morbus, and the liability to mistake the symptoms of that disease for those of arsenical poisoning. Admitting, for the sake of the argument, what I distinctly deny, that these symptoms are identical, I might ask with confidence, whether cholera morbus would account for what are quite as important as the symptoms, the peculiar appearances after death, and the results of the chemical inquiries. Unquestionably it would not.—Does any one of the witnesses, always excepting the doubting gentleman whom I have mentioned so often, and whose name I will promise not to repeat again, think this a case of cholera morbus? Not one. Do the physicians who attended Mr. Chapman, think it was a case of cholera morbus? They have told you distinctly that they cannot account for the symptoms or the death. Yet you are asked to believe it was not a case of poisoning by arsenic, and that it was a case of cholera morbus, though the professional witnesses discredit it, though the attending physicians discredit it, and, last of all, though the prisoner herself, in the face of this Court, has discredited it. It is among the wonders and distinctions of this case, that, while we were struggling here for your confidence or distrust as to the character of the disease by which the deceased came to his death, we should have the opinion of the prisoner herself as to the nature of that disease put in evidence accidentally and inadvertently, I believe, by her counsel. That opinion ratifies fully the views of the prosecution here. In the letter from Mrs. Chapman to Col. Cuesta, dated at Erie prison, she uses this remarkable language, to which I ask your attention, especially, "*When I reflect that there is a probability my dear husband was poisoned.*" This is a most significant concession. The counsel tell you he died a natural death,

and almost go so far as to tell you what it was that caused it. The prisoner tells you he died of poison, and in a word dispels, so far as her opinion goes, all the dimness and uncertainty that have been conjured up. She tells you it is probable her husband died of poison. They tell you it was natural disease, and natural death, and ask you to attribute it to causes which have been specially assigned before you. I leave it to the counsel to impeach their client's deliberate opinions on the symptoms of Mr. Chapman's case put in evidence by them, and retort on them the question so significantly put to all our medical witnesses, whether he who judges of disease at a distance and on the testimony of others, can form as accurate a judgment as he who watches the bed-side of the patient, and personally observes every symptom that is exhibited. In addition then, Gentlemen of the Jury, to the symptoms which are unquestioned symptoms of poisoning, to the post mortem appearances corresponding with those caused by the presence of poisoning—to the chemical experiments also indicating its existence, to the professional opinions fully confirming it—in addition to all these matters of evidence, connected and "clamped" together as they are by the fact of the purchase of the poison, I ask you to take into consideration the declaration of the prisoner herself of her belief on the subject, and then to come with me to the conclusion, that William Chapman died of the operation of poison, and that poison arsenic.

(Mr. Reed, in conclusion on this point, read the following authorities, *2 Beck, Med. Jurisp.* 227, 8, 9.—The cases of Miss Blandy and Nairn, and Ogilvie. *Id.* 230, 233, and an extract from Lord Tenterden's charge in the case of Donnall, in *Smith's Analysis of Med. Evidence*, 230, 231.)

I come now to the question of the agency of this prisoner in that death, assuming it as proved to have been a violent one. And I think if your minds have arrived at this conclusion, you will realise the force of what I have already said, that in one event these inquiries are not separate, not distinct, but closely and necessarily connected. The issue tendered us on the part of the prisoner, as I have told you, is between perfect and unspotted innocence, and the blackest guilt, and the theory of the defence rests on the allegation that, down to a certain period, the prisoner was pure in impulse and innocent in conduct, and that even subsequently all that can be laid to her account is what, in the expositor of her counsel, is called imprudence and indiscretion. Crime, you will remember, is not admitted in any form, either as matter of commission or connivance. She is, by the softening tints of this theory, the loving wife, the affectionate mother, and, if I am not mistaken, the counsel depicted the agonising desolation of the broken hearted widow. She was bowed down by genuine affliction in the house of God, and moved by her tears and groans the natural sympathies of the reverend gentleman who has been examined here as a witness in her behalf. She watched her dying husband's couch. Yes! Gentlemen, remember, that too is the necessary ingredient of this theory of innocence and propriety. She soothed his dying sufferings—she saw the beginning and watched the progress of the disease that was to make her a widow and her children orphans. Yet that husband died by the agency of the most active and agonising poison known in science, and the mystery, to use the weakest word, of the case next occurred to her. The physicians who were in attendance were struck with amazement at what they saw, and now tell you they are at a loss to account for the death, yet she who, by the theory of the counsel, was the sick man's guardian nurse, sees nothing but the simple operation of natural disease. I refer now to this only as showing how closely the two great questions in this case are allied, and what a lurid light the fact of the death by poison, once established, sheds upon the evidence immediately relating to the prisoner's conduct. It would be premature to dwell more particularly on it in this place.

You will remember that this, like most atrocious crimes, was secret and mysterious. It was the result of a combination and conspiracy guarded with all the reserve and secrecy that such a design required, and shrouded in the darkness suited to such unhallowed councils. Beside the bond of common interest which always connects accomplices in guilt, but which, to prevent the defeat of justice, the policy of the law sometimes severs, there is in this case a tie which is never, for the purposes of civil or criminal justice, permitted to be broken. They are man and wife; and the secrets of their conspiracies are therefore sacred by judgment of the law. What they resolved to do, when their plan of blood was suggested, with whom it originated, by whom it was fostered, and by whom matured, how it was carried into

effect, when the machinery was set in motion, in what way it was made to operate on the unsuspecting victim, are questions which, so far as they depend on what is called positive, as distinguished from circumstantial evidence, we have no means of answering. No human being can answer them but the prisoner and her accomplice, and their lips for all the purposes of judicial evidence, are sealed in silence. No eye but theirs saw the mixture of the potions they prepared. No ear heard the arrangement of their designs, or the expressions of their confidence. I do not mention this as an apology for circumstantial evidence. With men of intelligence it needs none. The answer to all the vapid declamation that ever has been or may be uttered against it is, that it is the only evidence by which secret crime can ever be detected, and that the inferences drawn, in the honest exercise of reason, from facts that cannot err, and are theniselves distinctly proved, are justified by every principle of law, reason, justice, or morality. All we ask of you then, on the evidence of facts, such as we have laid before you, is the fair exercise of your own intelligence. We require nothing else. The counsel have told you that the dawn of the intercourse between these prisoners was illumined by the holy light of chastity. I accept the metaphor. But that dawn, thus radiant, was soon clouded, and to that sacred light succeeded the thick, murky darkness of unnatural crime, such as we have been engaged in developing, and it is that darkness the officers of this reviled prosecution have been obliged to penetrate, with the aid of such evidence as facts and circumstances supply.

The essential element in such a case, is the existence of a motive to crime in the prisoner, and so important is it regarded on all sides, that the counsel told you in language not the less just because it is figurative, that this indictment is built upon motive. And what motive, it is asked, could the prisoner have to perpetrate an act like this? Was there any conceivable inducement for her to sacrifice all she, in her day of innocence and prosperity, enjoyed? We agree to this test of our case—we allege no wanton, no gratuitous enormities. Bad as we believe this prisoner to be, and lost to all moral principle as we think this evidence has proved her, we have no wish to depict her as one of those deformities of humanity which we have read and heard of, and of which one of the books on your table contains an almost incredible instance, to whom poisoning and death are matters of sport. But we will show what the impulse and the inducement were, and what was the promised equivalent that, in this disease of fancy, tempted her to guilt and ruin. She was, I take the picture as drawn by her own witnesses, in the midst of this world's happiness, and had within her reach all those means of enjoyment that usually fall to mortal allotment. She was a wife, who, I say it in justice to the memory of one, of whom, in the mortal struggle here, not a word of praise has yet been uttered, was beloved and caressed by a husband, whose honest affection was worth possessing. She was the mother of children whom, I say this in justice to her, she loved, and who, judging from what has been exhibited to us, were worthy of a mother's love. She was pursuing an honest and respectable avocation. This is what was on one side of the account; what was on the other I will presently show, and I avail myself at once of the occasion to remove what I believe to be a misconception on the part of the prisoner's counsel as to what we allege to have been her motives and impulses.

It seems to be imagined that we attribute all that occurred to the influence of licentious passion, and consider the murder as the consequence of adultery only. This certainly is not my view of it. I say now, if it has not been rendered manifest by the course of our examination, and I invite the counsel to the inspection of my position, that I attribute this crime to a complicated motive operating on a moral temperament radically diseased, and the allied impulses that I assign for it are not only the licentious appetite which dishonoured the closing hours of her murdered husband's life, and placed her inextricably in her seducer's power, but avarice to be satisfied by the wealth she supposed that seducer to possess, and ambition of the rank and honours with which she believed him to be clothed. With this theory of the motive, the counsel will believe me when I tell them we concede most fully that the prisoner was the victim (not, however, the innocent victim) of Mina's falsehoods. Down to a certain period, long subsequent to her husband's death, she believed them all. Yes! all. Incredible, monstrous, as those fictions now appear, she believed them! And, believing them, there was no want of motive, adequate motive, to a mind like her's. The physician to the mind diseased was

at hand here to exasperate disease, to hasten the sluggish malady. Money, immense wealth, was the burthen of every tale the tempter told—his trunk of diamonds, and his mines of silver—his thousands in this country, and his millions in Mexico—his rank, his titles, his great connexions—these were his chosen themes. How these were to be secured she well knew, and yet we are asked for motive. I take the theory given me by the counsel, that she was deceived, grossly, fatally deceived, and I tell them my theory is that that deception was the great secret of her crime. The whole mystery is solved by the prisoner's solemn declaration to Mrs. Smith, when speaking of her marriage. "I can declare to you, Mrs. Smith, on holy writ, that had not the Consul's sister told me Mina was a gentleman of very large fortune in his own country, I should not have been deceived, but she said so, and I believed it."—What the progress of this deception was, and how the impulse it supplied became allied with that of adulterous passion, I will presently show, when I come to examine the evidence in detail. The preliminary ground I now take is this, that Mrs. Chapman believed Mina to be what he represented himself to be, and she knew that the only way to secure to herself participation of the wealth and honours for which her tainted fancy longed, was marriage with their supposed possessor, which could only be consummated by the death of her lawful husband. If to the illustration of the motive thus supplied, we add evidence of adulterous intercourse prior to her husband's death, which placed her wholly within her paramour's control, and added the fear of detection to the other impulses that were torturing her mind, the coincidence between the manufacture of the letter in Mr. Durand's store, which I pledge myself to show you was meant for her inspection only, and the purchase of the poison—the occurrence of the marriage so indecently and unnecessarily hurried before her husband's corse was scarce cold in its grave, the dramatic spectacle of the grief so ostentatiously made in All-Saints church after her marriage, the real state of her feelings to the dead and the living husband, as developed in her love-letters to Mina, and, last of all, her conduct and language when suspicion first was awakened, and after she knew Mina to be an impostor, we shall, I think, have made out the position my colleague took in his opening, that this wretched woman is guilty to the full extent of the dark crime laid in the indictment.

I will now proceed to the narrative as illustrated by the evidence. Let us pause one moment, and see what was the relative position of this now desolate family, when the hero of this dismal tragedy appears. I say its relative condition, for what amount of positive prosperity and tranquillity was there enjoyed, in spite of all the evidence which has been laid before us, we have no means of knowing. Both its prosperity and its tranquillity are, to my mind, at least equivocal. But as matter of contrast with the horror and crime which afterwards desolated it, it was a happy and prosperous, and making relative what the glowing diction of the counsel has described as positive and substantial, I will concede it to have been the abode of harmony and domestic peace. At the threshold of this home of innocence and prosperity, on the ninth of May last, a stranger asked for alms, and happy, it is truly said, would it have been for this prisoner and her family, if that boon had been refused, and the beggar had been thrust out to seek elsewhere the charity he claimed. If I were to select my language I would not describe that stranger, thus cherished by the warmth of genuine charity, as the destroyer only, as the counsel has called him, though certainly destruction and desolation have followed his steps. It was rather the tempter that came. Yes! Sir. The tempter who was to extend his subtle wiles over all about him, and, using as his ready instrument, the wretched being now before you, was, in the course of one little month, to complete all the nefarious projects of his prolific brain, and with other hands to consummate the darkest of mortal crimes. I am unwilling, Gentlemen, to refer oftener than is necessary, to the evidence of the little girl who has been examined before us, but there was something so touching in her trembling accents, and so simple in the few words with which she described Mina's arrival at Andalusia, that I cannot but ask you to recall them, and then think of all the horrors that have followed. "My father was rocking the child in the rocking chair, when Mina came in." In one month from that time, that kind father, of whom the child could scarcely speak without tears, was slumbering in his bloody grave, and his place was usurped by the author of his ruin. The first words that Mina uttered comprised his oft told tale of wealth and dignity. That story was believed. Great credit has been claimed

for the prisoner for the charitable impulse which actuated her in so readily acceding to the request for a night's lodging, and it will be recited as evidence of the relentless scepticism of the prosecution, if I venture to doubt the genuineness of that charity.—But, Gentlemen, if this pure flame did brighten in the recesses of a heart where I am justified in saying few kind feelings have found a place, it was but a jet that died in its birth. A less pure impulse soon succeeded, for we find from the prisoner's disclosures made long subsequently to Mr. M'Ilvaine, that immediately after Mina's arrival, it was a subject of congratulation between his hosts, that so rich a man, who had it in his power to do so much in a pecuniary point of view for them, had accidentally found refuge in their house.

It is among the mysteries of this dark transaction, that this gilded bait was so readily swallowed. It is almost inconceivable that such a tale told by such a man should be believed. A wandering mendicant, with scarcely rags to cover him, speaking the language with the greatest difficulty, represents himself as the possessor of rank and wealth, and tells a history of adventure, we might think, too absurd for one moment's credit. The prisoner is not an ignorant woman, and certainly has abundant intelligence. Yet his tale, with all its essential absurdity and inconsistency, is believed—implicitly—unhesitatingly believed. The next day, such is her anxiety about this attractive stranger, the prisoner accompanies Mina to Bordentown to visit his alleged friend at Joseph Bonaparte's. What occurred on that ride, we have no means of knowing. The only individual who accompanied them is not produced. But whatever did occur, and whatever was told by the Spaniard to the prisoner, to the secrets of that ride may be traced all the influence he so soon acquired, and the confirmation of the incipient delusion by which her diseased fancy was already possessed. Nothing, it is admitted, occurred during that expedition, calculated to produce rational confidence, yet from that time, such was the art of the tempter, and the credulous facility of his victim, that she never doubted. Immediately on her return, in the full flow of exultation and confidence, we find her boasting of the rich prize bestowed on her. The day she came back she had a conversation with Ellen Shaw, who cautioned her against deception. Considering what has occurred, and the relation of the parties, this was in all respects, a remarkable conversation. She told Ellen Shaw she would soon have thousands where she had dollars now—that she had concluded to let Mina stay three years; that he was rich in his own country, and would send for diamonds for her; she was to teach him English, and he was to give her \$ 2000 a year. Ellen Shaw told her he was a Spaniard, and nobody knew what he might do. She replied, he was a dear young man, and she was going to take him in as her own son, that she would be a mother to him, and her children should be sisters and brothers to him. Ellen then told her Mina did not look like a man that had much, to which she said nothing. "After that," adds the witness, "Mrs. Chapman and Lino were in the room together almost all the time." This occurred, you will remember, on the 10th May, the day after Mina came to the prisoner's house.

The confidence thus suddenly generated, was not however so complete as to render further confirmation unnecessary, and from time to time we have new incidents and new falsehoods calculated to strengthen it. You have heard the detailed account of the visit to the Mexican Consul, and have seen how the occurrences of that visit tended to increase this wretched woman's delusion. She returned from Philadelphia with the firm conviction, justified, I think you will again agree with me in saying, by no substantial reason, but, nevertheless, with the firm conviction that all Mina's representations of his rank and wealth were true. Swayed by the ruling passion which has so fatally influenced her destiny, she seems to have been perversely and resolutely insensible to every circumstance calculated to awaken her from this dream of imagination, and to have reposed in unsuspecting credulity in defiance of all warning.

From time to time Mina seems to have thought it expedient to strengthen her delusion. That necessity, however, gave him but little trouble, for he had only to invent some new falsehood and gild it well, to have it readily believed. On the 28th May, he makes his will, and deposits it with the prisoner, by which he gives to her a munificent legacy. This symbol of future wealth, though bearing on its face the characters of falsehood, was cherished by her as the representative of riches. It was, you will recollect, in the Spanish language, which she did not understand, and purported to be worth, by the figures in the margin, the enormous amount of a

million five hundred thousand dollars, though in the text it is but fifteen thousand dollars. That discrepancy could not have been known to her, and in all probability to her excited imagination this paltry bit of paper scrawled over with characters scarcely legible, was the symbol of the enormous sum stated in its margin. It formed an appropriate part of the system of received falsehood which seems to have possessed her, and is the legitimate companion of the trunk of diamonds, and the mines of gold and silver, of which he represented himself to be the possessor. Every thing, in short, tended to pamper the morbid appetite which consumed her, and to nurse the infatuation which was leading her step by step to ruin.

What then was the relation of these parties at the expiration of a fortnight from Mina's arrival? He had become completely domesticated, and through one member of the family had acquired an influence over the rest, against which it was vain to struggle. For his convenience and his comfort, the affairs of the family were neglected, the school was abandoned, and the active member of the household seems to have had no other care than to minister to the rich stranger's wants and promote his convenience. This brings me to the next incident of this romance of history, and to the opening of the volume of actual and atrocious crime. The desire of securing wealth and rank I have stated to be one of the alleged motives to the commission of this murder; I come now to the additional impulse of licentious passion.

And here too, we are triumphantly told, that the Commonwealth has failed, miserably failed. Where is the evidence of licentious intercourse? Where is the proof of this treason to her husband? Where is the overt act of adultery? "Indiscretion and imprudence" she may be charged with, but of the taint of crime she is as free as innocence itself. This is all very well. It sounds well, and looks like the boldness of conscious innocence. It is very fair declamation, and nothing is more allowable by the rules of forensic logic than to ask questions, and then to answer them yourself. But with the permission of the gentleman, I will put in a supplemental answer to his taunting interrogatories, and if he chooses then to write "indiscretion" and "imprudence" opposite what I shall submit are in evidence here, he will permit me, in charity to himself, to believe he is speaking his client's language, and not his own. The Commonwealth has failed to show the existence of an improper intimacy between these prisoners. Let us see how this matter really is. It is clearly in evidence before you, that the prisoner and Mina rode together for hours alone—that she would lock herself up in a room with him and shut close the windows of the apartment—that she went to the city with him, and remained there separated from her husband and family for at least three days—that she permitted him to take gross liberties with her person, to lie in her lap, and fold her in his arms, whilst they sang love songs to each other—that on one occasion (remember, gentlemen, it is a wife and a mother of whom I am speaking) she was seen lying on his bed in her night clothes, and at another time they were seen kissing each other. All this is in clear evidence before you, and it is this which you are asked to pronounce "indiscretion and imprudence." Yes, this kissing and fondling, this daily, hourly, habitual indecency, this actual corporeal prostitution, this shameless indulgence of appetite, is nothing—it is the mere levity of thoughtless innocence—the mere "indiscretion and imprudence" of unsuspicious purity—it is no overt act of crime. Yes! sir, that is the theory of the defence, and let it go for what it is worth. But no, say the counsel, we deny that there is any evidence of all this. The witnesses that prove it are perjured—they are unworthy of credit—they have contradicted themselves. This, I confess, is safer ground than justification, but still it will not do. I appeal with confidence to the Court and Jury, if this allegation of contradiction and perjury is sustainable. Is Ellen Shaw perjured? Is Ann Bantom perjured? Are Esther Bache and Edwin B. Fanning perjured? No, Gentlemen, there never were better or more credible witnesses produced in a court of justice, and I deny that on any point essential to the veracity of their statements here, did they in the slightest degree contradict themselves. You will easily conceive that it is no trifling matter to be exposed to the trial which those witnesses have endured, and to be the passive objects of the searching interrogatories and the withering frowns of the gentleman who has conducted the cross examination; yet severe as was the test, it was fairly met, and the humble individuals who have been examined before you, strong in their belief of the truth of what they told, could not be driven from their ground by the harmless thunder of that voice, or the lightning of that eye.

But it is said, even admitting there was affection and solicitude felt by the pri-

soner for this stranger, it was parental affection, the care of a parent watching over a child; and to sustain this new position, great reliance is placed on the alleged impaired health of Mina, and his liability to fits, which rendered constant personal attendance necessary. In relation to these alleged fits I shall only say what the evidence justifies me in saying, that he never had a fit while he was at Andalusia, and that the prisoner never for one moment believed he had. For eighteen months previously to May last, while he was an inmate of the Penitentiary, he had no fits, and we have no evidence of his ever having one since he left the prisoner's house. No one of the residents in that house believed he had fits, and every witness that has been examined has described them in such a way, as to leave little doubt that they were part of his system of falsehood, and were got up with the connivance of the prisoner, to afford them an opportunity of private and undisturbed association. Mary Palethorpe describes them as a strange sort of fits, because, while he had them, he seemed to know every thing that was going on about him. The prisoner pretended to regard his life in danger, yet never consulted a physician till after her husband's death, when she indirectly mentioned it to Dr. Knight, who, on examination, though he saw him but a few minutes after his recovery from one of his spells, could discern no symptoms of disease. She told Esther Bache that she could not remain in the room with her, because Mina had one of his spells, and that his life was despaired of; yet in a short time they were heard laughing and talking together, by the witness, in Mina's room. Yet it is on the basis of these dangerous fits that this new hypothesis of parental affection rests. If you believe our witnesses, what becomes of the theory. If you do not, I think I can satisfy you by evidence that cannot be impeached, that it is equally absurd. By way of illustrating the actual state of feeling between these individuals, and showing how idle this *dernier resort* of "parental affection" is, I will invite your attention for a moment to one of the letters written by the prisoner to Mina immediately after their marriage, and will ask you to give it the retrospective operation I ask for it. Although any one of those characteristic letters would suit my purpose, I will read to you those of the 5th July, the marriage day, and of the 7th July, from Syracuse. (Mr. Reed here read the two letters, p. 41.) There is something remarkable too, Gentlemen of the Jury, in the separation of this loving couple on the wedding day. They are married in the morning, and are upwards of one hundred miles distant from each other at night. It looks very much as if passion had been gratified already. It will not do to tell us that it was a mere marriage of convenience, in which passion had no part. These letters are damning evidence that passion had its agency in this ill-fated union. Parental affection! The mother and the child! What will not the counsel ask you to believe? Read those letters, Gentlemen, and tell me if the most glowing love that ever actuated the bosom of humanity could have uttered more ardent, more passionate expressions. "My dear Lino, very pleasant are the sensations that vibrate through my soul, when thus addressing you, my dear Lino, for the first time, to call you *mine!* and till death shall separate us, how pleasing—how delightful! and you, dearest Lino, so young, so fond, so noble, and so truly grateful to *your Lucretia!* My soul would gladly dwell upon *you*, till the time for writing would pass away." "I have but half an hour to say all I wish to my *dearest dear*"— "If," she says in her letter of the 7th, "my dear Lino had been with me, he would not have permitted his Lucretia to have rode a second night all night, without resting on her bed." "My dear sister and family join with me in sending you and our dear children all the *love* my letter will hold; so be careful, my dear, and do not spill, and so lose our *precious love*. Sister says I must make haste and finish my letter to send to my *pretty little husband*. My dear, I hope you will not let our children see the nonsense I have written. My very kind nephew is now waiting with his horse geared, and snapping his whip as you do sometimes, when a little tired of waiting, so good bye, good bye, dear Leno, good bye. It seems a long time to wait till next Wednesday, before I meet the fond embrace of him who is so dear to me, as is my young General Esposito mina. Once more, my dear, adieu, says your devoted Lucretia Esposito mina." Parental affection! A marriage of convenience! Imprudence and indiscretion! Good God, to what vile uses will language be prostituted! Recollect too when these letters were written. Her husband had not been dead two weeks when this marriage, which all the sophistry of the counsel cannot palliate, was consummated, and these letters were written. It was the author of these letters, filled as they are with the disgusting effusions of passion, that acted the scene of hypocritical grief which Mr. Sheetz

has described, and dared, whilst fresh from the rank sweat of a licentious bed, and with her hands stained with a husband's blood, to partake of the holy sacrament in the house of God. I regard these letters as the most important evidence in this cause. They admit of no misconstruction. No art can explain them away, and what I ask of you is, to take them as the genuine expressions of the uncontrolled passion that has throughout swayed this prisoner, and to use them as illustrating other points of this cause and of the evidence. To take them in connexion with the overt acts of profligacy proved by the other witnesses, and then, rejecting the absurd idea suggested by the counsel of the parental and filial affection which they would have you believe existed between them, to come with me to the conclusion, that there was an adulterous connexion between Mina and the prisoner, long prior to her husband's death.

But we are told Mr. Chapman was deceived too. He wrote letters to Mina's parents, believing them to be rich and noble. He gave him the order to Mr. Fassit. He gave the order on Watkinson, and what is most relied on as a sufficient vindication of this prisoner's character, he displayed genuine affection for the alleged author of his dishonour, sympathised with his misfortunes, and mingled the tears of pity with those of apparent grief. Mr. Chapman, though an amiable and a kind hearted man, it is conceded, was energetic in neither mind nor body. He was entirely too under the control of the prisoner, whose masculine intelligence and habits gave her an influence in her family which it was useless to resist. Whatever she told him to do was done. It is in evidence that he was imposed upon by Mina's artful tale, and that to a certain extent he was deceived by him. I see no difficulty in conceding this. But what then? It is as clearly proved that he saw the intimate relation between Mina and his wife with pain and anxiety. It is in evidence that he felt all the agonies of well founded jealousy. That husband must indeed be desolate and degraded, who has to utter his complaints, and publish his dishonour, to his servants and his guests. Yet that, if you believe the witnesses, was the condition of this wretched man. During the mysterious visit of three days to the city, about which the prisoner has given us no evidence, as day after day passed without their return, his anxiety increased; he said that they were ruining his peace—he went on, said Ellen Shaw, like a crazy man, and to Fanning he unburthened his mind by declaring he believed they had gone off together, and that if they returned home late, and went, *as he supposed they would go*, to Mina's room, "by God he would kill him." It was the same witness that, on his death bed, Chapman supplicated to remain with him, "for," as he said, "when Mina is sick, all attention is paid to him; but when I am sick, I am neglected." And what, let me ask, was easier than for these adepts in deception and falsehood, on their return from their temporary elopement, to prepare some fiction, which, by a weak mind like his, would easily be received? Mina had the ability to deceive less credulous beings than this degraded, broken-hearted man; and when aided by such an ally as the prisoner, is it unreasonable to believe that their combined inventions were sufficient to lull, for a time, the *dæmon* that tormented him? When they returned from the three days' visit, the story of the sister's death was fabricated and believed; and for my part, taking into view what is proved to have been the character of the deceased, I see no irreconcilable inconsistency between the agonies of jealousy displayed to Fanning and Ellen Shaw, and the tears of sympathy which, in pitiable credulity, he shed at the tale of the misfortunes of his destroyer. But be this as it may, admitting the alternations of feeling to have been as great as they are described to have been, let it be remembered that his dying request to Fanning was not to leave him in helpless solitude, and that almost the last accents of his tongue were the utterance of that jealousy which long agonized his soul. Add, Gentlemen, to all this, what is in evidence as to the feeling of the wife to the husband, her neglect, her insults, her harsh language, and her unfeeling conduct, while all the gentle feelings of her depraved heart were engrossed by this mysterious stranger. Remember the constant bickerings, the tyrannical influence, and above all, the wish so cordially and so thoughtlessly uttered at a moment when reason's sway seems to have been suspended, that "she wished to God he was gone, for she was tired of him;" and I imagine you will be at no loss to see, in the temperament of this unhappy woman, the appropriate elements for the operation of those inducements to crime which surrounded her.

I understand perfectly well why it is that the prisoner's counsel have taken the bold, unnatural stand to which they have been driven, of denying all they could, and

justifying whatever they could not deny. I realize the necessity by which they were compelled to endeavour to impeach the testimony on which this part of our case rested. How far they have succeeded is another question. But what is its effect if it is not discredited? It shows too clearly that this woman was utterly abandoned and lost to moral principle, and that she and her partner in guilt had gone through a complete preparatory process in the school of crime. That having sacrificed on the altar of passion her own honour, and the honour and happiness of her husband, she was ready to the same relentless idol to make a bloody offering. More fiends than one were busy in her breast—more than one disordered passion had its refuge there. One crime, one ghastly crime had been achieved, and in its dark shadow, and at no great distance lingered the only other crime, which humanity regards as more heinous. I have heard, Sir, of the sister virtues, and I have heard too of a relationship of crime—the furies as well as the graces of the soul, but if there be two crimes naturally, essentially allied with each other, they are adultery and murder. In the moral law of God the first great prohibition was, “Thou shalt not kill”—the next, “Thou shalt not commit adultery,”—and the interval between the two points on the scale of human depravity, is small indeed, I ask you then as husbands and fathers, knowing the loveliness of domestic love, appreciating the sanctity of domestic obligation, realising what you owe to your wives and children, and knowing that no conceivable inducement could make you avoid that obligation, whether you can conceive a more unnatural, a more revolting crime than that which blasts all these, blurs the purity of woman’s fame, and entails deep and lasting ignominy on the wretched offspring whose undying curse is the infamy of her who gave them being. I ask you too, in the spirit of sober inquiry, if the distance between adultery and murder is so great, or the transition from one to the other so unnatural as to render it improbable that the woman who could perpetrate the one, would commit the other. If you believe the evidence of all the inmates of her house at Andalusia, who have been examined here, if you believe that the prisoner felt towards her husband, as it is proved she did feel, that she was as guilty as those witnesses describe her, that she was the victim of this unholy passion, that seemed to know no control or check, that she had forgotten all sense of decency, all shame, all moral and religious principle, all her sacred obligations to the husband that once cherished her, and to the poor helpless children to whom she had given birth, that she was in the daily indulgence of licentious appetite, and the habitual commission of open adultery, is it a wonder that her moral sensibility, indurated and deadened by this wear and tear of profligacy, did not revolt at the suggestion or perpetration of the crime of which she is now accused? And yet we are asked for motive! And the inquiry is tauntingly put to us, whether we dare, in the mere wantonness of persecution, to allege a crime without an inducement! The moment, Gentlemen of the Jury, of this prisoner’s acquiescence in this act of blood, was doubtless one of acute mental agony. I hope, for the credit of degraded humanity, there was at least an instant’s pause on the verge of the awful gulf of unpardonable guilt, and that the bloody seal was not fixed to the final covenant of crime, without a momentary pang. But was there comfort in the retrospect? Was there consolation in the past or hope in the future? For this wretched being, none. Beside the shadowy form of fancied wealth and honour, that stood beyond the sepulchre to tempt her on, there were other impulses and other motives, that urged her forward. She knew her injured husband had his rights, and that if her abandoned conduct were once discovered, the limit to endurance might be passed, and she would be thrown, ignominiously thrown, a degraded outcast on the world. She knew, too, that her servants could at any moment reveal her guilt, and she felt that the dreaded vengeance might at any moment break and overwhelm her. She knew too by what an uncertain tenure the supposed affection of her seducer was held, and felt that there was but one way by which her fears could be hushed, and her hopes realized. That mode I need not say was the death of her injured and abhorred husband, and marriage with him whose wiles encompassed her. Here then was every inducement likely to operate on a diseased mind like her’s, every conceivable impulse to urge her onwards. And yet we are asked for motive!!

I approach, now, the period of the catastrophe. In the early part of June it appears from Mr. Watkinson’s order book, the prisoner was with Mina, in the city of Philadelphia. Mr. Chapman’s order for the clothes is dated on the 9th, and the clothes were charged to the prisoner in the blotter on the 10th. About a week before the

16th, and at the time when they were at Watkinson's store, Mina purchases a quantity of arsenic at Mr. Durand's store. Young Mr. Guillou fixes the dates accurately. The stores of Mr. Durand and Mr. Watkinson are, you will remember, not fifty feet asunder, being at opposite corners of the same street. The poison is purchased at least a week before it is used, for the deceased exhibited no symptoms of indisposition till the 17th. Why this delay? Why this hesitation? If the deed of blood were resolved on, and the instrument at hand, why pause? But it was not resolved on. It was not fixed. The fatal train was laid, but the hand that held the fire trembled. The plan was suggested, perhaps matured, in the councils of crime, but the sticking point of resolution was not yet reached, and some new security was to be given that the temptation was not illusory, and that the glittering pledge, for which she was to stain her soul, was safe. That security was the forged letter, manufactured under Mina's dictation, by young Guillou, on the 16th June, the day before Chapman was taken ill. The coincidence between the fabrication of that letter and the illness of the deceased, is most remarkable. It purported to be from the Mexican Consul, and contained a full confirmation of Mina's representation. It was couched in terms of affectionate regard. It was written at Mina's request in English, a language which the prisoner knew he did not understand. It was the only assurance which her lingering doubts required, and the moment she had that imaginary security, her tottering resolution fell. On the 16th the letter was written, and on the 17th her husband was taken ill. I say, Gentlemen, this letter was written for her inspection not Mr. Chapman's. The fraud practised on him was complete. He needed no confirmation of his faith. For, from the evidence of Lucretia Chapman it appears, that but a day or two before her father was taken ill, on Mina's expressing to him his fears that he should soon be without a home to shelter, or friends to protect him, the answer of the old man was, that his house should be his home, and that, till he heard from his family, he might remain there. The deceased had no suspicions that required this opiate. It was the doubt of another this letter was meant to satisfy, and that doubt once removed, the deed of blood was consummated. I do not pretend to express an opinion as to the character of the incipient malady, or to say whether I regard it as natural or not. It is not necessary that I should. If it were originally a natural disease, it presented a more appropriate and a safer opportunity to apply the poison, now, on the security of this letter, determined on. If it were the result of the operation of a minute portion of this deadly material, it corroborates the opinion I have expressed as to the object of the forged letter, by diminishing the interval, and fully authorizes a conviction under this indictment.

In reverting to the evidence relating to the period of the illness of the deceased, it is not, of course, my intention to refer particularly to the phenomena of disease, but to confine myself wholly to the conduct of the prisoner and her accomplice, during that time. Whether the original indisposition resulted from a natural cause or not, is immaterial. On Sunday, Mr. Chapman was convalescent. Dr. Phillips, who saw him on that day, proves this. He considered him then so slightly indisposed as, in his opinion, to render it unnecessary for him to call again, and having prescribed some nutritive food, he left him. On Monday morning, according to the evidence of Ann Bantom, he was still better. The same morning, soon after this witness saw the sick man, the prisoner herself made the chicken soup which had been ordered by the physician twenty-four hours before, salted it in the kitchen, and then, contrary to all rules of clinical practice, took it to the parlour to have it *seasoned*. The witness had occasion soon after, to go to the parlour, where she found the prisoner and Mina, in earnest conversation, with this bowl of soup in their hands. About dinner time the prisoner brought the soup down, saying, her husband did not want any more of it. It was left on the table, and afterwards thrown out by the witness. In the afternoon the chicken was taken up, returned almost untouched (of this the witness is positive). About dark, Ann Bantom saw the deceased, whom she had left in the morning tranquil, and comparatively well, and found him suffering in those agonies which never intermitted till he died. These are the facts connected with the alleged administering of the poison on the 20th June. They are meagre, say the counsel—they want connexion—they need consistency, and so would it be said—such would be the cry, unless by some special Providence, we could have exhibited to you this prisoner and her conspirator actually drugging the potion for their victim, and calculating, in unreserved confidence, the

probable duration of his life. I say it boldly and emphatically, in answer to all the ingenious sophistry that we have heard from the junior counsel who opened this cause, and in anticipation of the premeditated indignation of his colleague, that the evidence on this part of the case, is the best evidence, short of demonstration, that we could have given. And that, with the evidence of subsequent conduct on the part of the prisoner, it is demonstration. In the morning, the individual who is believed to be poisoned, is convalescent, and exhibits no symptoms of disease. In the evening, without any adequate and visible cause, he is in the actual agonies of death, such agonies too as this species of poison is known to produce. In the interval between the morning and the evening, no one has access to him but the prisoner and her accomplice; perhaps I may say no one but the prisoner, and the two children, one of whom the prisoner has not dared to produce. If we had no other evidence than this, with the fact that poison was in that house, and in the possession of the individual with whom this prisoner lived in all the confidence of crime, it would be sufficient—amply sufficient. But there is more. In that interval he takes no medicine at all, for he required none, and no nourishment but what this prisoner prepares with her own hands, and takes from the kitchen to the parlour under a false pretence, and over which, before it is carried to the sick man's room, she and her agent for the purchase of poisons hold a secret council. From the moment that soup was given, the deceased became suddenly and alarmingly worse. But it is said, the soup was brought down, and according to our own showing, placed on the kitchen table, where every one had ready access to it, and we are asked whether we impute to this prisoner the reckless barbarity of thus exposing her children and her servants to indiscriminate destruction. Certainly not. No one has, I presume, believed that the soup thus ostentatiously paraded to the servant who had seen her prepare it, was poisoned. I, unquestionably, do not believe it. But is it fair logic that because some unpoisoned soup was brought down, no poisoned soup was given? It seems to me to be sounder argument, that the exhibition of this soup was part of the requisite machinery of this scheme, and to be a fairer inference from what is observed immediately after, that a portion of this soup was detached for the purposes of these conspirators, and administered, than that because the prisoner left the bowl of soup upon the table, there was no poison. But, say the gentlemen, it is the bowl of soup that kills the poultry in the yard. I thank them for imputing such a statement of facts to me, but must be permitted to disclaim it. I never said so. None of our witnesses ever said so. All I have said is, that the poultry died, suddenly and mysteriously died, in a way for which no natural cause can account. I mentioned it as a circumstance of coincidence, and only as such, to go for what it is worth. Beyond this, I certainly claimed no special consideration for it. But there is still another solution of all this suggested. The deceased, it is said, ate imprudently of the chicken, and that killed him. Of this ingenious suggestion, I believe the credit does not belong to the counsel, and of it, I shall merely say that not only is such an indulgence of appetite not proved, but it is disproved. Ann Bantom expressly proves that the chicken came down untouched, or nearly so, and plausible and satisfactory as this new theory of disease may seem to the counsel, it is unfortunate that their client has so expressly discredited the whole of it by the declaration to which I have before referred, by which she assigned the real cause for her husband's death. It is not my business to anticipate the arguments of the counsel, of which I can only judge by the glimpses afforded me by the opening counsel. I therefore dismiss this part of the case, and proceed with my appropriate duty, with this single remark, that the simple fact of the immediate succession of the characteristic agonies of arsenical disease, to the taking of this soup, prepared by the prisoner and Mina, is alone sufficient to dispel all the confusion with which the false logic of the counsel would envelop it, as well as the thin, misty clouds which their solitary witness to the facts is supposed to have conjured up.

On Monday evening, Fanning returned to Andalusia, and found the deceased in a state of indescribable and acute suffering, with the same symptoms that the other witnesses describe. So alarming did his condition appear to Fanning, that he urged the prisoner to send for a physician, which she refused to do, and so anxious did the sick man himself become, that it was on that evening, in one of the short intervals of tranquillity which his torturing malady afforded him, he implored the witness to remain by him and protect him. No physician was sent for till late on Tuesday, the day before he died. On Tuesday morning, before Fanning left his chamber,

the prisoner came to him, and asked if he remembered that two weeks before her husband had eaten of stale beef, which disagreed with him. She added, "he has never been well since that." This you will remember was the day after he had, according to her statement to Mrs. Smith, and the evidence of Lucretia, eaten so voraciously of the chicken, and was the first of the series of inconsistent falsehoods with which she has, from time to time, endeavoured to account for this catastrophe. But why, let me ask, this unsolicited information to Fanning, why this voluntary revelation for his benefit? Had he made inquiries? If he had, was it not expedient to answer them so as to lull any suspicion that might be rousing itself? Had he any right to inquire? Did his position in that family entitle him to put interrogatories of this kind, or was this prisoner of a temper or character to submit to such a catechism? I think not. But Fanning was entitled to this information for other reasons. He was the only individual of that household who had had opportunities of observation, and on whose fidelity and silence, if guilty, she could not rely. Her servants were not, to her knowledge, in the sick man's chamber, and knew nothing. Her children could have no suspicion. Fanning had seen much, might suspect more, and if he did suspect, might publish his suspicions. For him then, some explanation was required, and to him the first falsehood was told. This anticipation of suspicion, with the palpable inconsistency of the tale she told, with what she afterwards uttered, I readily leave to the counsel to explain. Fanning left the house on Tuesday morning, regarding Mr. Chapman as a dying man.

You will remember that it was on Monday night the deceased complained to Fanning of his wife's neglect. On Tuesday evening the prisoner took the black servant to her husband's room, told her she thought he was dying, and begged her to remain in the kitchen. That same evening Mina had one of his fits, whether real or pretended, I cannot say, and at whose bedside was this prisoner found? The answer is humbling to human nature. At the moment when her injured husband was in the helpless agonies of desperate disease, asking and soliciting aid and protection from strangers and servants, when he was dying, and she knew he was dying, this faithful and affectionate wife, this living emblem of fidelity and love was shut up in a dark room with her paramour, careless to those sacred claims which her dying husband uttered. On Tuesday evening, Dr. Knight, who was not the family physician, arrived, and found the case, as he has told you, desperate. On Wednesday, Dr. Phillips called accidentally, and was shocked to find his patient and friend, whom on Sunday he had left so well, in the very agonies of dissolution. On Thursday morning, with no intermission of suffering from the time the soup was administered till the moment of death, the wretched man breathed his last, and left the authors of his death in the full fruition of all they hoped for.

Such is the narrative that has been put in evidence before you down to the period of William Chapman's death, from which, as illustrated by other evidence of acts and declarations subsequently, we ask you to infer this prisoner's guilt. One circumstance connected with it has occurred to my mind more than once, as most remarkable, I might almost say, miraculous. It is, that this crime, thus shrouded in secrecy and mystery, should ever have been detected. If ever the perpetrators of atrocity had reason to exult in imaginary security, it was these prisoners, when the result of their dark projects was attained. Their victim was sleeping in his bloody grave. The wages of their crime were paid. The criminal indulgence for which they had stained their hands with blood was theirs, while suspicion slept, and no whisper was heard but that which is never still to tell them there was retribution due for guilt. Of the numerous visitors at the funeral at Andalusia, there was no one but saw, in the death of the husband, the ordinary and natural lot of humanity, and in the conduct of the wife, the genuine expressions of the widow's grief. Weeks and months pass by, and all is unsuspected. But the calm was deceptive. There was a Power watching over the scene to check the full career of crime. The blood of the sacrifice at last spoke from the ground. The process of detection began with the accidental disclosure of a letter in which, in all the anguish of remorse and jealous suspicion, she reproached the callous partner of her guilt, and from that time to this moment it has never ceased. From the time when the police first visited Andalusia—when suspicion scarcely dared to raise its voice, each day was destined to reveal some new matter of corroborative evidence. The disclosure of the letters—the arrest of the Spaniard—the prisoner's flight—the preservation of the body in the grave—the purchase of the poison—the conduct of the parties—their falsehoods and

prevarications when they found the eye of suspicion was on them—all were matters tending to that demonstration which I think we have reached. The hand of Providence was here. You will scarcely credit me when I tell you that one of the strongest matters of evidence in this cause, the proof of the purchase of the poison by Mina in June last, was an accidental discovery, which three weeks ago the Commonwealth was not apprized of. Amid all the details of this horrible business, shocking and repulsive as they are, there is consolation in the illustration it has afforded, that crime like this cannot escape detection; and there is room for gratitude to those to whose activity we are indebted for the disclosure of this appalling scene. It is a comfort to realize that we live in a country not only of laws, but of well executed laws, and that we have at least this security from the ravages of crime. And yet you have heard more than a little about official persecution, and about the power of the government being enlisted on the side of prejudice and injustice. The agents of the police, the ministers of justice, all who have dared in the performance of duty to cross the path of the defence, have been denounced as blood hounds, and as leading the pack of foul-mouthed calumniators that are hunting this prisoner down. What epithets are in reserve I do not know. I speak of those which have been applied. I know it to be the distinction of one of the counsel, that he can brow-beat a police officer, and I think I can discern the slumbering metaphors beginning to stir themselves in his brain, to be hereafter hurled, with eloquent indignation, at those who have officially provoked his wrath. The power of the government! Yes! We have been aided by the power of the government. The power of that government, which we have created for the benefit of ourselves, has been exerted for our security. If the gentlemen mean to say that those who have had charge of this prosecution, have prostituted the influence which their station gives them, to foment or countenance popular prejudice, I send back the imputation with the scorn it merits. The power of the government! Yes! sir, we have had its aid, and we were entitled to it. If we invoked it for the protection of the lives and fortunes of the citizen, for the detection of the guilty, for our own exemption from liability to outrage and violence, who will dare to dispute our right to it, or who will dare to censure us for having used it? I heard the suggestion fall from the counsel, with regret. I thought it below the dignity of professional tactics, and only excusable by the despair of a sinking cause.

On Friday, the 24th June, Mr. Chapman was buried. You will remember, Gentlemen, the various explanations we have had of the cause of his death. I must now add another to the list. To Fanning, she said it was owing to the stale beef—to Dr. Phillips, she attributed it to vertigo or apoplexy, and her counsel say it was the imprudent eating of the chicken. Three hours after the funeral, the prisoner told Mrs. Hitchborne it was all owing to his eating heartily of smear-case and pork. These are strange inconsistencies, which I also submit for the explanation of the counsel. I mention them here, because this conversation with Mrs. Hitchborne is the next incident in the order of time which is in evidence before us. I may, I think safely, pass by all the little indications of levity and indecorum on the part of the prisoner which have been proved to you. Though not unimportant, I have not time to dwell on them. On her return from the funeral at which, according to Mr. Sheetz's evidence, she seemed in deep affliction, she had a consultation with Dr. Knight about Mina, and in the evening, as proved by Miss Vandegrift, took tea with the family, and appeared quite cheerful. The next day Mrs. Smith paid her a visit, and then the disconsolate widow of the counsel's theory seemed as if nothing had happened, while Mina was regularly installed as master of the house. On the 28th June, five days after her husband's death, she was at Watkinson's store with Mina, and ordered a new and expensive suit of clothes for him. It was on this occasion, as the witness told you, he "began to open his eyes" as to the Spaniard's real character, though to her the delusion was still complete. But these are all really trifles, and lose all positive and relative importance in the event which followed. The damning fact which defies all the sophistry of the counsel, and admits of no palliation or explanation, is, that on the 5th of July, twelve days after her husband's death, this prisoner, and the Spaniard Mina, were secretly married in New York. Yes! Gentlemen, married! Never forget this in all your speculations as to motives, and impulses, and inducements. The stipulation that had been made long before, was here ratified. The object of all hope and all anxiety was here attained. Prospect had become reality; and as the wife of the rich and noble stranger, she believed all the promises of her

disordered fancy were verified, and the great prize were secured. Passion too had its influence, and in the full exultation of that moment she thought she was happy. It is this marriage which the counsel have called an imprudence and an indiscretion, and we have an explanation suggested as to its cause. This poor woman, say they, was left helpless and friendless, without a protector, and as a matter of convenience, and in pursuance of her husband's dying wish, she was led to take this luckless step. Who, Gentlemen of the Jury, has dared to insult the memory of the dead by such an assertion as that made by the prisoner through her counsel, that such was her husband's wish? No one but the prisoner herself. We have shown what were that husband's feelings towards this man, and had the prisoner ventured to call a witness to establish what is now alleged, we were fully prepared to disprove it. A marriage of convenience! a marriage of necessity! Not only unsolicited, but at first refused! This will not answer either. Had the bridal letters never been written, this tale might have been credited. I have already called your attention to the correspondence between the prisoner and Mina, for another purpose; I will now for a moment refer to it, to show the utter fallacy of this part of the defence. The allegation is, that this marriage was reluctantly assented to by the prisoner as a matter of necessity, in which inclination had no agency, passion no share. Any other view of it would destroy the theory of the defence. We meet it by the exhibition of the confidential letters written by her to him, in which, in the unreserved confidence of connubial love, she utters the expressions of her doating fondness. Those letters have been read to you, and will be placed in your hands for careful perusal when you retire. I ask for them your deliberate attention. If ever unchecked passion, in a disordered and undisciplined mind, found appropriate language, it is in these singular letters. They breathe all the doting fondness that ever loving mistress bestowed on man. Every line and every word are traced by passion—passion unchecked and uncontrolled—the very riot of the blood—and yet we are to believe that the author of these letters was dragged against her will to the altar, where she a second time plighted her faith, and that her true affections were buried in her husband's grave. If the counsel who are to follow me, can reconcile this inconsistency, I will promise them to abandon this prosecution, and let their client go at once on a weeping pilgrimage to that husband's tomb. By way of additional contrast, I will ask you to remember, too, that it was before the ink was scarce dry on the letter of the 8th July, from Syracuse, in which, in a tone of playful fondness, she acts the absent mistress, when she returned home and displayed the scene of apparent woe which has been described by Mr. Sheetz. I take one extract from that letter at random, as a specimen.—“Good bye, good bye, dear Leno, good bye. It seems a long time to wait till next Wednesday before I meet the fond embrace of him who is so dear to me, as is my young General Esposimina. Once more my dear, adieu, sais your devoted Lucretia,” &c.—“I saw Mrs. Chapman in church, says Mr. Sheetz, after Mr. C.'s death. She appeared to be in great affliction—she was dressed in mourning. I had some conversation with her calculated to console her under her affliction. She also communed after her husband's death!!!”

I have said, that down to a certain period subsequent to her husband's death, the prisoner was under complete delusion with regard to Mina, and I have endeavoured to show what was the combined operation of the motive this delusion supplied, and disordered passion, in tempting her to the commission of crime. I now come to the time when that delusion was destroyed, and this wretched woman was left to the agonies of disappointment and remorse. I need but hastily refer to the facts. On the 18th July, Mina left Andalusia for Baltimore, under the false pretence of seeing a sick friend, taking with him all the little valuables of the prisoner, on which he could lay his hands. In full confidence in him, she entrusted him with her carriage and horses, her watch, and a quantity of jewellery, which, as you know, she was destined never to see again. He left with her an ornamental chain, as a token of his fidelity. On the 20th of July she wrote to him a letter, breathing the same fervent passion, and repeating more than the ordinary protestations of unalterable affection. From Washington, Mina wrote a series of letters, by the aid of a translator, to the prisoner, of which I shall only say, referring incidentally to your recollection, that their style indicates either unbounded confidence in her capacity to believe any thing, however absurd, or a sarcastic insolence, which, knowing that she was, beyond extrication, in his power, he did not care about expressing. How he checked her afterwards, when she did question that power, I will presently show.

On the 23d July the prisoner, anxious at his protracted absence, went to the city, and there discovered, through the agency of Mr. Watkinson, that Mina was an impostor. The gay dream terminated here, and she awoke to all the horrors of desolation and remorse. It was not mere suspicion of deception, it was evidence—it was demonstration. The Consul disclaimed him utterly—Watkinson had found him out—no traces could be discovered of her property—the chain he had left with her was worthless—every part of the deception had been destroyed. On her return to her home and to her children, she searched his chamber, and there found the paper accidentally left by him, which, for the first time, seems to have awakened a doubt of his affection for her. I mean the bill for lodging for himself and ladies at the hotel in Philadelphia. It was in all the agony produced by these discoveries, that she wrote the letter of the 31st July to Washington, in which in the genuine language of a wounded spirit, she deplores her desolation, and reproaches her destroyer. (Mr. Reed here read the letter, *supra*, p. 47.) Gentlemen, that letter needs no comment from me. It was written from a once happy home, to him who had made that home desolate. It told a tale of agony and self-reproach, which would have melted any heart but his that seems never to have known a kind susceptibility. The hopes, which in the wreck of innocence had sustained her, lay broken around her, and the ghastly spectre of a murdered husband stood by to mock the ruin. "I have no husband now," she tells him in one part of the letter, and concludes with the utterance of that expression of deep remorse and self-reproach, which is so significant. "But no, Lino, when I pause for a moment, I am constrained to acknowledge, that I do not believe God will permit either *you or me* to be happy this side of the grave." Now, to what can that reproach refer? If innocent and blameless, why such language, and if guilty, what is the crime? These are questions for you to answer.

It is important to bear in mind, that the discovery thus made by the prisoner in Philadelphia, with regard to Mina, was complete. There was no room for doubt on her part, or explanation on his. If the Consul disclaimed him, the basis of the great edifice of deception which his ingenuity had raised, was gone at once. The disclosure made to the prisoner by Watkinson revealed her accomplice in his true character of an impostor and a swindler. That her illumination on this subject was complete is manifest, not only from the letter which I have just read, but from the facts communicated by her in her remarkable conversation subsequently with Mrs. Smith. Keeping in view what was the evidence of his imposture which she had, let us for a moment recur to it. You will remember, that the letter of 31st July, was never received by Mina, he having left Washington before it arrived. Within a day or two after it was written, the prisoner, and her sister Mrs. Green, had a consultation as to what should be done in case he returned. "I had made up my mind," said the prisoner, "that I hoped he never would return." Whilst they were talking, Mina arrived, probably unconscious of what had occurred during his absence, or indifferent, knowing that he held the secret which could ensure, so far as depended on his accomplice, his safety. He knew full well she did not dare expose him. When he came into the room she said, "Lino! leave me." He replied, with his usual assurance, "What is the matter? If an angel had come from heaven, and told me a wife of mine would behave so, I would not have believed it." She then said, "Lino, the chain you gave me is not gold." He replied, "If your affections are so slender as a chain, I can explain that to you." He then proceeded with the bald apology which Mrs. Smith has related to you, and gave an explanation, every word of which the prisoner knew to be false. That she did not believe it, is manifest from her answer to it. "Lino! my sister is not at all satisfied with this conduct." He said, "We had better be separated then—I find I have more wives than one to please." The prisoner replied, "The sooner, the better." He then said, in a tone that indicated his consciousness of power, "Remember, Mrs. Chapman, before I go, I must tell you something." She asked him what it was. He said he could not tell her in her sister's presence, that if she would come into the other room, he would tell her. She went with him to the other room, and in a few moments returned, saying, "Sister, Lino is not an impostor, he is a clever fellow." On the witness very naturally inquiring what it was he told her, that so soon altered her mind, she said, "Well, Ma'am, that's of no consequence, it was something between ourselves." On the next day, or the day after, such and so complete was the mysterious alteration of feeling, the prisoner gave this confessed impos-

for letters of introduction to her relatives and friends in New England, on the faith of which he nearly consummated a new scheme of infamy and ruin there.

That interview, and the sudden revulsion of feeling it produced, is among the unexplained mysteries of this singular history, and we have no evidence, and not even a declaration of the prisoner to tell us what then occurred. It is enough for the purposes of this argument, that it was sudden, and that it is unexplained. We have read of fairy tales, in which the magician, by the exhibition of some powerful talisman, could subdue resistance, and enforce instantaneous submission to his will, and, if I were permitted by conjecture, to develop the secrets of this scene of necromantic influence, I could attribute to the hero of this plot of death the possession of a magical power of as unbounded sway. I mean the possession of the fatal secret of her guilt. Cast him off! Expose him! She dared not do it, and no one knew it better than himself. He held the secret of her infamy and crime, and to that talisman her haughty spirit bowed. Their destinies were united by community of guilt, and loathsome as the alliance might now be, no mortal hand could sever it. I did suppose that the prisoner would have offered something in the form of evidence, to have cleared up this mystery. It has not been done, and I claim the benefit of the omission.

I come now to the last chapter of this eventful history, I mean the circumstances connected with the discovery of this murder, and the prisoner's flight. I have already, in the performance of the laborious duty assigned to me, occupied more of your time than I anticipated, and am admonished by my own exhaustion, as well as by the lateness of the hour, to bring my remarks to a close. I can, therefore, do little more than refer cursorily to the evidence, leaving it to your intelligence for its appropriate construction. You will observe that, throughout this last act of the drama, the prisoner's conduct was most peculiar, and little consistent with the course which conscious innocence would pursue. All the explanations she makes are false. All her disclosures are forced from her, and yet are artfully made to appear to be voluntary. She never makes what she wishes to be regarded as a confidential communication, but to individuals who, she thinks, have, or may have, suspicions, and never, in one of her intervals of most apparent unreserve, does she tell one half of what it is proved she knew. And, last of all, the instant she learns of Mina's arrest, and that the eye of suspicion is upon her, she secretly makes her escape, and flies with her oldest daughter, to the State of New York. When Mina and the prisoner parted at Andalusia, in August, he going to New England, they were destined never to see each other again till they met as prisoners at this bar.— Almost immediately after he left this part of the country, the police were on his track, and by the accidental acquisition of the Washington letter, had their attention awakened to the development of greater guilt than his. About a week after Mina left Andalusia, the prisoner conversed about him with Mrs. Hitchborne, and repeated to her the old story which she then knew to be false, about his riches. Not a word was said about her marriage, or her husband's death. Almost immediately afterwards, Mr. M'Ilvaine and Mr. Reeside visited her house, when the former gentleman had with her the conversation which he has related to you. He asked her various questions about Mina, to all of which she answered falsely. She denied that she knew where he had gone. She denied that she knew where he had been to. She denied that he had robbed her of her property. This was to her an awful and eventful interview, which, with the distinct recollections you must have of the eloquent manner in which the witness narrated it, I shall not attempt to describe. She was destined then, for the first time, to hear that there was a suspicion as to the manner of her husband's death, and that the secret was in part betrayed. And you will observe, that so soon as the horror of the discovery passed away, this intimation too was met by a ready falsehood. "When I spoke of her husband's death," says the witness, "I certainly spoke with solemnity. She sat leaning on her arm, in great agitation; she did not look me in the face, and from the time my object became apparent, there was a remarkable change in her countenance to a livid expression, as ghastly as any thing I ever saw, accompanied by a convulsive heaving of the bosom, as if caused by an effort to restrain feeling; I thought she would sink under it, but to my surprise she recovered, and said, in answer to my question"— "No. I have seen nothing of the sort. Mr. Lino was my husband's kind nurse during his illness, and gave him the greater part of his medicines." At this interview she never mentioned her marriage. This visit you will see was the origin of

her alarms and anxiety, and from that moment she began to guard against suspicion, by what she now claims credit for, her voluntary disclosures. On the Thursday following, she hears from one of her children that some of the police agents had been in the neighbourhood, and had stopped at Mrs. Hitchborne's. That night, between nine and ten o'clock, after the family had gone to bed, the prisoner walked to Mrs. Hitchborne's, and told her she understood Mr. M'Ilvaine and Mr. Reeside had been there, and asked if they had left any message for her. A strange inquiry this, for conscious, careless innocence to make. She then borrowed the newspapers for a fortnight past, and returned home. On the Monday following, she has a conversation with Mrs. Hitchborne of a still more significant import. The witness, in reply to a question about Mina, said she understood he was suspected of poisoning Mr. Chapman. What is the answer to this intimation? She said, "Is it possible?" and added, that *she had never heard of it!* "I told her," said the witness, "I was informed that she was married to him ten days after her husband's death. I asked her if she had any idea that Lino had poisoned her husband. She said she had not. She then asked me if her name was in the papers. She said she hoped not." The prisoner then, after some hesitation, admitted to the witness her marriage, and gave to her the justification which her counsel have repeated to you here. This conversation occurred at the prisoner's house, where the other witness, Mrs. Smith, was then residing. We have next a confidential communication to her. The prisoner asks Mrs. Smith to send one of her children to a neighbour's, for the newspapers, giving as a reason for not sending one of her own, that she had already been troublesome by often borrowing papers. After some reluctance, the witness agrees to do so. A few hours after, if so long, we have the voluntary disclosure of the prisoner to the witness, accompanied with great apparent candour, of the facts relative to her marriage, and all the artifices that Mina had practised. After hearing it all, the witness said to her, "Mrs. Chapman, I should not be surprised if this fellow had poisoned your husband." She gave a sigh, and said, "Do you think so?—those gentlemen intimated the same thing. I asked, what gentlemen? She said, Mr. M'Ilvaine, Mr. Reeside, and Mr. Blayney. I observed to her, I had not seen them. She said, No ma'am, as you did not know any thing of their business, I did not mention it to you. I observed to her, I was very much shocked to hear it—I wished to be out of the place. Her reply was—"Why you know nothing—*hearsay* is no witness."

It is not material that I should dwell upon the details of her subsequent interviews with Mr. M'Ilvaine, as related by that gentleman. They require no comment at my hands. She never went to him till she heard, through Mr. Campbell, of Mina's arrest. She repeats all the falsehoods she had told to others. With all the appearance of candour with which she wished to impress him, she never, even when she tells the truth, tells half. She stated to him that she had no reason to disbelieve Mina's stories till she received the forged draft from Boston, and in short entangled herself in such a net of falsehoods, as, with the knowledge the witness had, only served to strengthen suspicion, and confirm the belief that all was not right. The tales she told to Mr. M'Ilvaine were, to his view, significant comments on her intercepted letter, which he then had in his possession. On the 17th September, the first intimation of her alleged agency in this murder appeared in the public prints, and on the 19th she fled. But, say the counsel—and they will permit me so far to anticipate reply, flight is no evidence of guilt. The innocent have fled. Public opinion and public suspicion are fearful adversaries for a helpless woman to encounter. Gentlemen, flight always has been, and always will be, in a certain sense, the evidence of guilt; and the few instances we read of, of the flight of innocence, are but exceptions to the principle, and only show that the innocent may sometimes act like the guilty. I give the counsel the full benefit of the exceptions. I claim the full benefit of the principle.

It is not my duty to anticipate the argumentative part of the defence. Of the evidence that has been laid before you on the part of the prisoner, or the facts, I have but a word to say. I have narrated to you this history of crime and infamy from the beginning to the end, and have referred you in detail to the evidence in support of it. That evidence has been consistent and complete. Every individual who was supposed to know any thing about this transaction, and who was within reach of the process of this court, has been produced and examined. The prosecution has withheld no testimony. On the part of the prisoner, we have had less frank

disclosures. The only witness on the facts who has been examined here, is the daughter of the prisoner, a child of ten years of age. Of that child, beautiful and interesting as she is, I have no wish to utter a word of unkindness. Towards those who brought her here, I certainly have less gentle feelings. I am no casuist. It is a poor science at the best. But I am not so severe a moralist as to be willing to recognise, so far as human condemnation is involved, the guilt of the child who hesitates to tell the truth on whose utterance depends a parent's life. Gentlemen, when I saw that little girl exposed in this court to public scrutiny, and the gaze of idle curiosity, with her cheeks glowing with blushes, and her eyes suffused with tears, looking in doubt and agony at her mother and the counsel, and telling in trembling accents the history of her father's illness and death, you will, I am sure, believe me when I say, I felt that there was at least one individual who would never raise his voice in obloquy against her. I question much whether any one that witnessed it will forget the spectacle of yesterday. That child is produced here to discredit the evidence of Ann Bantom. It is for you to decide between them. The evidence, if it affects them at all, strengthens the testimony of all the others. It is incumbent on a party striving to discredit testimony, to do it by the best evidence which can be produced, and when we are asked on the isolated evidence of this little girl, to attribute perjury to a respectable witness, I meet it by the inquiry, why is not Mary Chapman produced, who would be a better witness, who knew more of this transaction, and who is now a resident in this town? I deny the right of the prisoner thus withholding better evidence than she has produced, to charge our witnesses with perjury, on the unsupported testimony of a single witness, and that witness her infant daughter. Mary Chapman, according to Lucretia's evidence, brought the soup up stairs from the parlour; she was of an age which gave her opportunities of observation; she was with the family all the time Mina was there, and she was the companion of her mother's flight. Why is she not produced? Why is Mrs. Green not produced? She is within the easy reach of a subpoena. She could tell what passed at Syracuse, when she and the prisoner sat up all night talking about the prisoner's "pretty little husband." She could explain the mysterious interview at Andalusia after Mina's return from Washington. There are other witnesses, too, within the prisoner's control, equally important, and all, with the exception of the little girl, have been studiously withheld. This certainly is not consistent with the theory of innocence, of candour and propriety.

But then character! The prisoner has always borne a good character. This is greatly relied on. In the first place, I deny altogether that she had a good character, and I assert that even if she had, it would be altogether an inadequate defence to such a prosecution. This matter of character has been often, very often discussed; and I believe the result is an universal opinion, that it is one of those blemishes on the science of judicial evidence, which antiquity alone makes tolerable. If the witnesses who know what is called a prisoner's character, or in other words, who know what they think about a prisoner, were to compose the jury, I can understand how those impressions and that knowledge might operate, favourably or the reverse. But what are these impressions when they come to be uttered by a witness under the rules which restrain judicial examination on this point? Do you know what people say of her? Do you know her general character? I do: It is good. No other word can be uttered; no specification can be made. I do not understand how judges or juries can give such vague, second hand impressions any, the slightest consideration, when they are opposed to a body of positive or even circumstantial proof. But, gentlemen, I deny that this prisoner has made out her character. The utmost that the witnesses say of her is, that they never heard any thing ill of her, and scarcely any of them have known any thing of her for the last two years, while we have shown to you that for a longer time than that, those who had better opportunities of knowing her real character than any of her own witnesses, considered it as bad; and that she has been long watched by the police as a person whose associations and conduct rendered her suspected. The few words which were uttered here this morning by the vigilant police officer who was examined before you, are alone sufficient to destroy this unsubstantial fabric of reputation which the counsel have been labouring so industriously to raise.

I have now, Gentlemen of the Jury, performed my duty, and here terminate my agency in this cause. That the experience of the last two weeks has been most painful, I need not again say. I have been placed in relation to a fellow being such as I never wish to occupy again. We have all been compelled to listen to details of

crime and suffering, and have had no relief even in the accidental presence of innocence and peace. The decision of the great question involved here, is with you alone, and let that decision, be what it may, as the result of the honest exercise of your judgment, I shall be satisfied with it. You know too well what is due to yourselves, to your families whose security depends on the faithful execution of the laws, and to the great community of which you are a part, to need a word of caution from me. If you think this prisoner guilty, you will say so; and in arriving at that conclusion, I say it most conscientiously, I believe you will have reached that point at which we have all been aiming—the truth.

One word more, and I have done. I cannot take my seat without adverting for a single moment, in conclusion, to the exhibition made by the prisoner, of her children in this Court. It is a subject to which I refer with great regret. But why has this exhibition been made? Why have these poor children been paraded here day after day, and night after night, to listen to the narrative of their parent's infamy, and to sit at that bar exposed to the contagion of the partner of her guilt? Was it to disarm the zeal of the prosecution, or wantonly to aggravate the anxieties of their position here? Was it to give a new impulse and new themes to the eloquence of the prisoner's counsel, or was it to move your hearts to pity, and to gain for her from mercy, what she dared not ask from justice? I will not do the counsel the injustice to suppose, for a moment, that they advised or approved such a course. It has been the result of other deliberations than theirs. Independently of all views of propriety and impropriety, they would not, I am sure, counsel such a step on the score of expediency, for there is a consideration connected with the presence of those children which has occurred to my mind more than once, and which is calculated to move any sentiment rather than commiseration. These children once had another parent—a father for whose fame, whose honest fame, no one seems now to care, and to whose memory not even an incidental tribute of respect has yet been paid. That father was an honest, industrious, and respectable man; who did his duty in this world faithfully and conscientiously, and left to his poor children the legacy of an unblemished name. He died by violence; yes, gentlemen, the father of these children died by violence, and they are brought here to invoke mercy for the author of his ruin, and the contriver of his death. It is the mediation, the silent mediation of the most innocent for the most guilty. I remember, not long since, meeting in a book, that it would be unjust to call a book of fiction, for it is truly a book of history and profound philosophy, a passage which I have taken the trouble to put on my notes, and which I need make no apology for reading to you. The traveller is describing his departure from one of the eastern countries, on the eve of a wasting famine. "I had left a storm gathering in Egypt, of which I thank God I witnessed not the bursting. Already previous to my departure, the consequences of the scarcity had begun to appear in many places, but it was only after I left the country, that the famine attained its full force; and such was, in spite of human expedients and every appeal to Divine mercy, the progressive fury of the scourge, that at last the regular ministers of worship, supposing the Deity to have become deaf to their entreaties, or incensed at their presumption, no longer themselves ventured to implore offended Heaven, and henceforth only addressed the Almighty through the interceding voices of tender infants; in hopes that, though callous to the suffering of corrupt man, Providence still might listen to the supplications of untainted childhood, and grant to the innocent prayers of babes, what it denied to the agonizing cry of beings hardened in sin. Led by the Imams to the tops of the highest minarets, little creatures from five to ten years of age, there raised to Heaven their pure hands and feeble voices; and while all the countless myriads of Cairo, collected round the foot of those lofty structures, observed a profound and mournful silence, they alone were heard to lisp, from their slender summits, entreaties for Divine mercy."

Gentlemen, the mercy this wretched woman does not dare to ask, she has brought these innocent children to ask for her.

[Adjourned at 8, P. M.

Saturday Morning, February 25.

Mr. M'CALL, on the part of the defendant, addressed the jury as follows:

Gentlemen of the Jury,

The testimony on both sides being closed, it becomes my duty to address you again on behalf of the defendant. In the most ordinary case I might confidently

ask, and you, I am sure, would willingly accord me your patient attention. But when the life of a helpless woman is at stake, and when it is plain that she is the object of a prosecution pressed with almost unexampled zeal, I do not hesitate to believe that you will rather encourage than repress the honest ardour of those who have taken upon themselves the heavy responsibility of defending her.

It is easy to infer from the manner in which this cause has been conducted, that it is deemed one of the first importance. The counsel for the Commonwealth, who preceded me, addressed himself at once to your understandings, and your feelings. He told you that one of your neighbours, a fellow citizen—an inhabitant of this peaceful community, had been cruelly murdered, not by open force, which might have been resisted or repelled, but by poison, secretly administered by the unholy hand of his wife—the mother of his children. He painted to your excited imaginations the daring violation of the laws of the land; he carried you to your own homes, your own firesides, and your altars, and he pressed upon you with great felicity of thought and power of expression, the necessity of vindicating, by your verdict, the insulted justice of your country. No one is more fully aware than my learned and eloquent friend, of the powerful effect that images which thus “come home to the business and bosoms of us all,” are calculated to produce upon the human mind. He well knows, that if he can rouse your indignation, and enlist your feelings in his cause, the Commonwealth is safe, and that a verdict of guilty may be recorded against the defendant before your judgments have had time to cool.

But, Gentlemen, I trust that neither the arts nor the eloquence of our opponents will be capable of diverting your attention from the real merits of this great cause. I am convinced that you understand your duties too well to suppose, for a moment, that you come here for the purpose of *finding a victim*. It is, indeed, as you have been told, an awful consideration that you have before you the miserable remnant of a once happy and peaceful family: but the consideration would be yet more awful, if any feelings of prejudice, or mistaken notions of public policy, could induce you to refuse to the defendant the full measure of justice which the law allows her. It is incumbent upon those who allege that the laws have been violated, to show you, beyond the possibility of a reasonable doubt, that it has been done by the defendant who is now upon her trial. It is not enough for them to surmise or insinuate that she is guilty. More than this is required by the humanity of the law, and less than is required by the law will never induce you to render a verdict against a fellow creature, that may plant a thorn in your pillows to vex and torment you for the remainder of your lives.

I agree with my learned friend that you have an important duty to fulfil to the Commonwealth. You have also a duty to perform to the defendant. Duty is a broad and comprehensive phrase, and under it is included the protection of innocence as well as the punishment of guilt. For the defendant, however, I ask nothing more than the law accords to all, a fair and impartial trial—in which neither passion nor prejudice shall be thrown into either scale.

Let us then, without further preface, approach the evidence which the gentleman, who opened the prosecution declared, would leave no doubt of the prisoner's guilt. I will tell you what the learned gentleman ought to have proved, and I will then test and examine, as well as my humble abilities will enable me, the proofs he has given. He ought to have sustained, by the best and clearest evidence, every material fact alleged in this indictment. What is the charge there made? That William Chapman died by poison—administered by this defendant. The act and the agent are therefore the two great questions presented for your consideration. That he died—no man, I imagine, is willing to dispute—but how did he die? By poison, or by natural disease? The Commonwealth allege the former. It is the very fulcrum on which the prosecution rests its lever, and our learned antagonists are bound to prove it by the best evidence that the nature of the case admits.

I know that it has been matter of current belief throughout this respectable county—a matter taken for granted, as a thing of course, hardly to be inquired into, that Chapman did really come to his death by the deadly means alleged in the indictment. The newspapers have said that he was poisoned; and it has passed from mouth to mouth, and from press to press, till private opinion has become in a measure settled on the subject. But this, Gentlemen, is very far from the kind of belief which the law requires of you in the conscientious discharge of your duties as Jurymen. It is a belief, founded not on private impressions, for these you were sworn to banish

when you entered these walls, but on the evidence of the cause alone, that the law sanctions as a just ground of conviction. You must be able to say, with perfect safety to your conscience, that it has been *proved clearly and beyond a doubt*, that Chapman died by poison, before you can touch a hair of my client's head, or bestow a thought on the person by whom, or the manner in which, that poison was administered.

The law, founded on those great principles of universal justice, which God has written in the hearts of all men, has declared, that before you can convict a person of a crime, you must be fully satisfied that the crime has been committed. It were the merest folly to inquire as to the agent, while doubt remains as to the act. The learned Court will instruct you that this proof of the act, or as it is emphatically called—the *corpus delicti*—the very body of the offence, is an indispensable preliminary to all further investigation. It is requisite, to borrow the words of an admired author on the Law of Evidence, (Starkie, vol. i. p. 509.) “upon a charge of homicide, even when the body has been found, and although indications of a violent death be manifest, that it shall still be fully and satisfactorily proved that the death was neither occasioned by natural causes, by accident, nor by the act of the deceased himself.”

Dismissing, therefore, for the present, as irrelevant and misplaced, all consideration of the *agent*, and confining your attention exclusively to the *act*, let me ask you, Has the Commonwealth exhibited to you that full and satisfactory evidence that Chapman came to his death by poison, which is necessary for conviction in every capital cause?

To this first and vital point of the case, I respectfully solicit your attention, while, with all the diffidence which a sense of my own imperfect knowledge can inspire, I examine the evidence and authorities on which your decision must be founded. You have embarked on an extensive and a highly interesting inquiry, and I confess I was not a little surprised when I heard the learned gentleman say it was not a scientific one. It is eminently scientific. Else why this formidable array of venerable authorities invoked to speak the experience and the collected wisdom of ages? Why these learned practitioners brought miles from their occupations and their homes to enlighten you with the results of their own knowledge? You are now at the point where law and medicine unite their streams in the great ocean of science. Happily, however, you are not in the situation of the mariner, who pursues his devious track without chart or compass, or even star, to guide him. Our path is luminous, with the efforts of distinguished chemists and physicians, and the experiments of every year are pouring a blaze of fresh illumination on this once obscure and intricate subject. Under the auspices of an Orfila, Toxicology, or the Science of Poisons, has assumed the rank of a distinct department.

But, as if conscious that the medical evidence in this case was too weak and inconclusive to form the basis of your judgment, the learned gentleman has told you that all *scientific evidence* is inconclusive.—If it were so, Gentlemen, it should be utterly discarded by humanity and law. But let me, humble as I am, assert the dignity and the just claims of science. I deny that the proofs it affords are not capable of the highest moral certainty. I deny that if a metallic ring had been produced by the chemists engaged in this investigation, it would have been inconclusive: and I appeal to Christison himself, the very authority relied on for its inconclusiveness. (Mr. M'Call referred to Christison, p. 132.)

My learned friend will permit me to say, that he has been somewhat transported by that fury which he so indignantly disclaims, when he tells you, that it is for you to say, whether it is not *probable* that Chapman died by arsenic. A more dangerous, a more monstrous position never was advanced in a court of justice. It strikes at the very heart of our criminal law. It tears down all the safeguards which the humanity of our law has fenced around innocence. God forbid that the life of any man should be suspended on the thread of a probability. No! Probabilities are banished here. It is moral certainty alone, which must govern your decision.

In examining the subject now before us, no better or more rational arrangement presents itself, than that which the order of time suggests. I shall pursue that arrangement, and consider the symptoms before death—the morbid appearances after death—and the chemical analysis.

First then.—Do the symptoms exhibited by William Chapman indicate poison? or to state the question differently, do they not also indicate *natural disease*? You

have been asked with an air of triumph,—which one of these symptoms is not a symptom of poisoning by arsenic? You are told that each individually and all collectively indicate poison—and that that is enough for the commonwealth. Need I waste a moment in exposing the fallacy of the argument? It proves too much, and therefore proves nothing. What though they are symptoms of poison? The simple answer is—they are also symptoms of natural disease; they establish the negative as fully as the affirmative, of the issue—that Chapman died a natural death as conclusively as that he died by poison.

The time indeed was, when men were condemned to ignominy and death on the evidence of symptoms alone. Science, in its rapid march of discovery, has long since banished this doctrine from the forum. Such evidence is utterly weak and inconclusive, because it is equivocal. It is equivocal, inasmuch as the same symptoms are produced by various irritating causes besides poison; vitiated bile, for instance, from the collection of which, in the intestines, cholera morbus is said to arise, is a highly acrid and deleterious irritant. Dr. Phillips, whose intelligence and experience are well known to all of you, and Dr. Hopkinson, both tell you that the symptoms in this case are those of violent cholera, to which Dr. Togno adds, of violent indigestion. Dr. Mitchell informs you that the symptoms of arsenical poison are stated to be those of cholera,—not, as has been contended, of that terrific pest, on whose wings the angel of death has desolated the fairest portions of the globe, and in the short space of twelve years, swept twenty millions from its surface—but of the ordinary epidemic cholera of our country.

Let us, however, descend to a more particular examination of the symptoms in this case. In estimating their bearing and importance, we are met on the very threshold with the striking fact that neither of the physicians who attended Chapman during his illness, attributed his death to any thing but natural disease. It is impossible that they could have had the most remote suspicion of poison. They treated their patient, from first to last, for cholera morbus. Their subsequent silence speaks conclusively on this point. Think you, that as honest men, they would have dismissed this subject entirely from their consideration, and suffered justice to slumber unavenged over a deed of dark and hellish atrocity? Their duty to their country and to themselves would have forbidden so criminal a misprision. But you are not left to draw this conclusion from their treatment or their subsequent silence. Dr. Knight told Mr. Boucher on Tuesday afternoon, at a time you will remember, when Chapman exhibited all those alarming symptoms which terminated in death, and amongst them the burning pain that has been so much dwelt on, that he had symptoms of cholera morbus. Dr. Phillips too, before suspicion was afloat, and prejudice had contaminated the public mind, told Dr. Coates, that Chapman's death was occasioned by cholera morbus. So much for the opinion of the physicians who watched around the bedside of the deceased, and derived their knowledge of his symptoms, not at second hand, but from actual personal inspection.

What were the symptoms which gave rise to this opinion? Vomiting and purging, the very definition of cholera morbus. The burning pain too in the stomach, which the poet has so forcibly described in the royal sufferer, who bids the winter to his burned bosom, is expressly mentioned by Christison, as an attendant on cholera.—pp. 92, 239.

Coldness of the extremities, clammy sweats, feeble pulse, and great thirst, are also enumerated by the writers, among the symptoms of that disease.

The deafness which struck Dr. Knight as peculiar, is not urged as indicative of poison. In relation to the other symptoms detailed by Dr. Knight, on whose observation, imperfect as it is, we must principally rely, I shall content myself with referring to two passages from the learned Edinburgh professor, whose name has been so frequently and so honourably mentioned in the course of this trial. (Mr. M'Call reads Christison, pp. 92, and 239.) Paris and Fonblanque speak to the same effect.

Such being the analogy between the effects of poison and natural disease, it is not to be wondered at that Dr. Knight deemed it a case of cholera morbus. It is true, as you have been told, that he cannot now account for the cause of the death; but from the specimen you have had here exhibited of the retentiveness of the doctor's memory, such an inability need not excite any extraordinary surprise.

He neither examined the discharges made by the deceased, nor the body after death, with any particular attention, and indeed seems to have almost dismissed

the case from his recollection; for he cannot tell you what sort of medicine he administered from first to last.

With Dr. Phillips's testimony I shall detain you but a moment. He knows little, for he saw little. With the exception of the first visit on Saturday, he did not see Chapman till ten or twelve hours before death: when he was in reality a dying man. The appearances he then exhibited were those which ordinarily attend the instant approach of death. The cold, clammy, and shrunken extremities—the creeping and barely perceptible pulse—what are they but the vestiges of ebbing vitality—the harbingers of approaching dissolution? The deep anxiety depicted on the features of the dying man—what is that but the stern impression which protracted agony graves upon the human countenance?

Granting, therefore, to my learned opponent all that he contends for, that these are the symptoms of poison by arsenic, to what does it amount? When you couple that admission with the fact that they are also the symptoms of natural disease—a fact, let me repeat it, established by the treatment, the conduct, and the open expression of the physicians whose judgment was based on actual observation, and not on mere recital—by the testimony of the other highly respectable experts who have been examined in this cause, and by the concurrent voice of the grave authorities, that have been referred to. Thus supported, I feel myself warranted in the broad assertion that the evidence of poison furnished by the symptoms, is utterly fallacious and unsatisfactory.

II.—Let us proceed, then, in the second place, to an examination of the morbid appearances exhibited after death, and see whether the judgment can find a safer anchorage in them than in the symptoms. It is in evidence from the testimony of Dr. Knight, that Chapman's body presented what he calls a dark discoloration of the skin under the eyes and under and behind the ears. As to this, Dr. Phillips is entirely silent; and Dr. Knight himself formed no opinion of these spots at the time, nor did the appearance strike him as at all remarkable. Upon this point, I cannot do better than refer you to Christison, pp. 261, and 44, who says that this appearance ought not to form, in any circumstances whatever, the slightest ground of suspicion.

Again: The body at a period of more than an hour after death is found stiff—and this rigidity of the muscles, which that accomplished undertaker, Mr. Bouthcher, cannot account for any more than for the preternatural death of his ducklings, is urged as another appearance of poison. Is there any thing in this, that does not belong to the cold obstruction of death? It certainly did not strike the experience of Dr. Phillips as extraordinary, for he has not thought it necessary to trouble you with it. And as for Mr. Bouthcher, whose ability in these, the last sad offices of humanity, though he has had no experience in them for several years, I am not disposed to question, he was asleep up stairs when Chapman died. He is called down after the event—requested to undertake the laying out of the body—declines the unpleasant duty—sends a messenger for a neighbour who resides a mile off to officiate in his place, and waits till the return of the messenger before he commences his duties. After all this lapse of time, we are told that the muscles were stiff. The wonder would have been much greater, if they were not. The absence of rigidity would then have been as seriously and as justly urged, as its presence now is, in favour of poison.

But these are minor points. Let us proceed with Dr. Hopkinson to the burial ground of All Saints' Church, where he went, on the 21st September, at the instance of Mr. Ross, for the purpose of examining the body of William Chapman, which had then lain in the grave almost three months. It was the first exhumation that Dr. H. had made; and he has with a manly candour which adds grace to talent and accomplishment, acknowledged that it was imperfect. It was made under the current impression that Chapman was poisoned. The examination, if examination it can be called, lasted about three quarters of an hour, and was conducted by Dr. Hopkinson, with the assistance of Dr. Coates. Guessing at the internal state of the stomach from its exterior appearance, it seemed to them that the object of their examination was accomplished—that if Chapman was poisoned, they had the poison there. The stomach was removed and placed in a vessel; and contenting himself with an inspection of the large intestines, without examining the brain, heart, lungs, gall-bladder, or even the rectum, the doctor returned, perfectly satisfied that if there was any poison in the case, he had it locked up in the stomach. In that re-

spect I entirely agree with him, believing that if in reality there had been poison, chemical analysis would have obtained it from the stomach or its contents. None of the viscera but the stomach and the intestines were the subject of examination. The doctor has told you with frankness and truth, that in an investigation of this nature, involving the lives, the liberties and the sacred honour of men, no part ought to be omitted. It is much to be regretted that medico-legal investigations are not in this country, as in France, committed to the conduct of a medical board, appointed by the government, with a liberal compensation for the sacrifice of time and labour, which their responsible duties require. I trust the day is not far distant when the attention of our own State shall be directed to a subject so fraught with interest to the security and the happiness of its citizens.

What then were the peculiar morbid appearances in this case?

First, The remarkable freedom from putrefaction of every part except the head and face—and this ground my learned friend is unwilling to abandon. Arsenic, he tells you, has antiseptic qualities: and in proof of this assertion, he quotes amongst other high authorities, the quondam student of medicine, Mina himself, who purchased the arsenic of Durand, for the pretended purpose of preserving birds. The authority, respectable as it may be considered, is not altogether to the purpose, for the question is not as to the effect of arsenic when applied in sufficient quantity to the dead body, but whether when administered to the *living* body, it extends its preservative virtues after death. If it does, are its antiseptic qualities expanded over the frame in general, or limited in their sphere, to the immediate surface with which it is in contact? If the former, by what principle does it operate? by absorption through the blood, or by some mysterious change of the physical laws, which operate on the elements of organized matter?

These are great and serious questions—the solution of which is yet hidden in the womb of science; and in respect to which wisdom professes ignorance. Is any man bold enough to answer them? Certain it is that none of the medical witnesses in this cause has ventured to give a decided opinion on this dark and intricate point, and I presume that you gentlemen will not pretend to be wiser than the very sages of the art.

In support of his position, my learned friend has read to you from Christison several cases which strikingly illustrate the preservative powers of arsenic. The reports of those cases are not as full and satisfactory as might be wished; for we are not informed of any of the collateral circumstances which might have tended to retard putrefaction. What then shall we say to the numerous cases of poisoning by arsenic, where not only the ordinary rapidity of decay, but even an increased tendency to putrefaction, have been observed? I will take a weapon from his own armoury. Will my friend stand by the great authority he has quoted? Christison, in p. 259, reconciles the conflicting cases by the supposition that where the arsenic is not discharged by vomiting, and the patient dies soon, it will act as an antiseptic, on the stomach at least, perhaps on the intestines also, while the rest of the body may decay in the usual manner: that on the contrary, if the arsenic is all or nearly all discharged by vomiting, not only the body generally, but likewise the stomach and intestines may follow the usual course of decay. How does this doctrine suit the prosecution? If the arsenic was not discharged, why was it not found? If it was discharged, how does it account for the absence of putrefaction? The inconsistency is glaring.

I do not know that you, gentlemen, will deem it necessary to settle a question on which the most learned authorities are yet in a state of painful indecision, when the whole marvel is at once explained in a simple and satisfactory manner by the Rev. Mr. Sheetz. He has described to you with great particularity, the position of the burial ground—the sandy soil, and unusual depth of the grave. You cannot have forgotten the passages I read to you yesterday, from Orfila's stupendous work on Juridical Exhumations, an imperishable monument of the untiring zeal and noble spirit of a man who has passed a life amid the festering remains of mortal corruption, with no other view than the advancement of science, and the benefit of the human race. He has exhibited by facts drawn from the observation of some hundreds of bodies at different periods after interment, the various causes which modify and resist that tendency to decay, by which we soon moulder into the dust we once so proudly lorded over. When the vital principle has fled, the elements which composed its dwelling house, disorganize and fly off from one another—to form the

elements of new creations in the boundless circle of eternal change. For this purpose are requisite a certain degree of heat, especially of moisture, and the presence of air—and whatever has a tendency to exclude these, tends also to retard putrefaction. The sandy nature of the soil—the unusual depth of the grave—the absence of obesity in the individual—the freedom from faecal matter in the intestines, these are natural circumstances which explain the preservation of the body in this case, so satisfactorily, that Dr. Mitchell expressly renounces it as forming any part of the ground of his opinion. I feel confident that you will attach no greater weight to it.

But then the herring smell emitted on opening the stomach! Did any one ever hear of a herring smell in a dead body? "Is not that almost conclusive?" triumphantly asks my learned opponent. It is somewhat singular that with Dr. Mitchell's testimony, so cautious in its character, so impressive in its delivery ever before his eyes, Mr. Reed should attach such vast importance to matters which that gentleman entirely disregarded. "Nor can I," says he, "with the single comparative fact with reference to the smell, permit that to form any part of the foundation of my opinion."

To argue that a peculiar odour would not be emitted, three months after death, occasioned by cholera morbus, or other natural cause, simply because such odour has never been read or heard of, is to argue like the royal barbarian, who refused to believe the traveller's story, that in some portions of the world, the rivers were chained with ice, and supported men and animals, because such an occurrence had never come within the limited sphere of his observation. To infer that a thing cannot be, because its existence is unsupported by experience, is the weakest of all arguments in matters of science. For what does the aspiring and ever busy genius of man, scale every obstacle of mountain, storm, and climate, bid defiance to oceans, delve into the bowels of the earth, conquer the very elements, but to enlarge the empire of science, and add new materials to the treasures of past ages. Nature is an exhaustless mine. We may labour to the end of time, there will yet remain some shaft unexplored, some vein rich in beauty and in knowledge.

See how the argument works on our side of the question. Where—in what book—by what authority—has the herring smell been appropriated to arsenic? We have heard much of a garlick smell, and Dr. Bache speaks of a smell resembling tanner's oil, observed in Fenner's case. But the herring smell is entirely new, and in its novelty consists its evidence of poison. In this uncertainty of odours, I think you will attach no importance to the one in question.

The stomach was found, Dr. Hopkinson tells you, covered with a dark brownish mucus, and in a state of universal inflammation, bounded by its two orifices. The œsophagus too appeared inflamed, but how any conjecture can be formed of its condition, except by that penetration which can pierce through three coats of a stomach, I am utterly at a loss to conceive; for the examination, and with it our knowledge, terminated at its junction with the stomach.

Dr. Hopkinson, who never before examined a stomach three months after death, describes the appearances presented in this case as inflammation; while Dr. Togno, on the high authority of Orfila, considers them as nothing more than cadaverous phenomena, denoting the gradual stages through which the body passes to destruction, and regards the detachment of the mucous membrane from the muscular coat as decisive on the subject. Orfila, in his great Work on Exhumations, has unfolded the secrets of death's prison-house, and exhibited the thousand phenomena developed by the body after death. How difficult then must it be, three months after death, to pronounce on appearances as inflammation existing during life? The same observation may be applied to the spots spoken of by Dr. Mitchell. That is not the only embarrassment attending the subject. You have seen from the passages I read to you yesterday, from Dr. Yellowly's paper, the extreme difficulty of distinguishing between real inflammation and a mere vascular fulness. But grant the appearance in this case to have been genuine, undoubted inflammation. Does it establish the action of arsenic, rather than any natural irritant? We have not been favoured with a definition of inflammation, but are led to believe that it is an advanced stage of irritation, which may be produced by a thousand natural causes. Vitiating bile is a powerful irritant. Cholera morbus and indigestion are such natural causes. The inflammation of the stomach in cholera is sometimes intense. You have been told by the medical witnesses, and it is undoubtedly the doctrine of the best patholo-

gists,* that it is impossible to distinguish between a high state of inflammation produced by arsenic, and that produced by natural causes. And yet you are asked now to draw that distinction.

I shall glance rapidly at the remaining appearances. The dryness of the intestines was the natural attendant on the absence of putrefaction.

The small quantity of matters found in the stomach, need not excite surprise, when you consider the frequent discharges of the deceased, and the great length of time between the death and disinterment.

Dr. Mitchell expressly tells you that the intestines are found sometimes empty in cases of cholera morbus. The bloody discharge per anum, has been strenuously urged as indicative of arsenic. This appearance is spoken of by Dr. Phillips and Mr. Bouthcher, who were present after the death of Chapman. It was not observed during life, by Dr. Knight. Dr. Phillips says there was an involuntary discharge per anum, of a bloody serum, but he also tells you that involuntary discharges occur in all diseases in the last stages. Mr. Bouthcher's account of the colour is somewhat different. He cannot positively say there was any blood, he thinks the discharge appeared a darkish green. It has been urged as indicating an inflamed state of the rectum, which has been enumerated among the attendants of poisoning by arsenic. Supposing it to be really any thing more than the ordinary discharge produced by the agony of expiring nature, upon what principle are you gratuitously to suppose, in the absence of all examination of the rectum, that that organ was inflamed. We are not told of any excoriation or ulceration. The discharge, if sanguinolent matter, might have proceeded from dysentery, or a variety of natural causes. If the rectum had really been inflamed, such inflammation must have been attended with very acute pain. Yet not a word of complaint escapes the lips of the unhappy sufferer. He complains of his head, and of his stomach. But neither Dr. Knight nor Dr. Phillips, nor any one else, has heard a syllable about the rectum.

Such, Gentlemen, are the morbid appearances. They are all, and every one of them, compatible with natural disease. In the words of Dr. Hopkinson, "A violent case of cholera morbus might present the same appearance after death, as this body." Is it then the too ardent belief of the advocate, or is it not rather the sober deduction of reason, that the evidence they afford is as weak and unsatisfactory as that furnished by the symptoms. Put both together. Weigh their united force. They may, for aught I know or care, amount to what Dr. Coates modestly styles *medical* evidence of poison. The external appearance of the stomach is, it appears, *medical* evidence of its internal condition. Medical evidence, you are told, can never be positive. It certainly does in this instance approach very nearly to guess-work. All that I have to say, and in that I have the authority of Dr. Coates himself, and of the best medical jurisprudents, is, that if this be *medical* evidence, it is not the kind of evidence which the law requires in a case of blood.

Let us pass then to the chemical analysis.—To this the medical jurist looks as capable of yielding the only certain and incontrovertible result. Pathology and anatomy furnish, in this case, at best but a glimmering and uncertain light—a light which may delude and carry you into error, because it cannot enable you to distinguish between the effects of poison and natural disease. Not so with chemistry—that has a test past equivocation—a test which never lies—which, acting on the stomach and its contents, plucks poison from them, if there be poison there. I speak of the reduction of the arsenic to its metallic form and lustre, the great—the final the "crucial experiment," as it has been emphatically called—the only one, on which the mind can repose with safety, unshaken by doubt, and by a thought of the awful consequences which may attend mistake. I will not trouble you by repeating what is perhaps yet fresh in your recollection, the authorities I read to you yesterday, drawn from those sources to which we look for light—from England, the home of science—from France, the nursery of chemists—from Sweden, that boasts of a Berzelius. To these I added names of which our own country is proud, and ranks among the most distinguished of her sons. To the testimony of an Orfila—and a Berzelius, what need I add, what can I add? Their names are synonymous with all that is profound in science, and imposing and venerable in authority.

Christison, p. 182, speaking of reduction, says—"the great excellence of the test is, that the sublimed crust possesses so many highly characteristic properties as

* Christison, 103.

to render it equivalent to many other tests taken conjunctly, and to put it *absolutely beyond the reach of every fallacy.*"

Listen to the great head of modern chemistry.—"As the law requires life for life, it is necessary that the symptoms which denote poisoning be confirmed by the real presence of the poison in the contents of the stomach and the intestines, or in the matters discharged by vomiting."—*Berzelius, Traité de Chimie, vol. ii. p. 448.* The same principle is expanded and more fully laid down by Montmahou, from whose Manual of Poisons I read various passages to you yesterday, one of which I will take the liberty of now repeating. (Mr. M'Call reads from Montmahou, Manual de Poisons, p. —.)

The position for which I contend, supported, as I believe, by these illustrious authorities is, that no chemical proof, short of the reduction of the arsenic to its metallic state, is sufficient to warrant a conviction in a capital cause.

It is this alone which affords

"An arch-like strong foundation to support
The incumbent weight of absolute, complete
Conviction; here, the more we press, we stand
More firm."—

Our law, founded in the most obvious principles of humanity and justice, requires the fullest, the clearest, the most irrefragable evidence, before it imposes its awful sanctions. It must be evidence that does not admit a reasonable doubt. And can that evidence be considered full or clear, or free from doubt, when a process has been omitted, or, as in this case, been tried and FAILED, which would have set the stamp and seal of certainty on the fact. The last, the most important link in the chain is wanting—the golden link which is suspended from truth. The mind hesitates: it feels itself unsatisfied: it has not reached as far as it might—it has made advances towards truth—but it has stopped before it has grasped the final object of its research.

It is a well established rule in the trial of the most insignificant civil cause, that the best evidence, and the best evidence alone, shall be exhibited. If this be the rule where a few shillings are at stake, what shall we say when character and life hang on the event. Shall we allow inferior evidence to blast a man's reputation, and take away his life, than to settle a paltry claim against his property? God forbid.

Now, can it be for a moment doubted, that the actual reproduction of the metallic arsenic is a better proof of its existence than the varying shades produced by the liquid tests or the varying shades of a smell? Let your own reason decide.

Arsenic is a metal of a certain colour, brilliancy, and characteristic appearance, which Christison says in the most decided and unqualified manner, can be mistaken for no other substance in nature. When this metal, thus peculiar in its appearance, is found in a suspected fluid, we can ask no more; research is exhausted, doubt is banished, positive and absolute certainty is attained. And, to make assurance doubly sure, if the liquid tests, when applied to the metal, produce their characteristic results, the most fastidious judgment must acknowledge itself satisfied.

It is not so with the liquid tests, or the arsenical smell. At best, they furnish but presumption of the presence of arsenic. They open the track of investigation, they put you on the scent. It is reduction alone, which brings the object within your grasp. Such being, as I conceive, the received doctrine of the present day, sanctioned by the most learned medical jurisprudents of both Europe and America, let us apply it to the present case.

We proceed, then, to the laboratory of Dr. Mitchell, who, with the assistance of Mr. Clemson, undertook the chemical analysis of Chapman's stomach. The viscid mucus scraped from the walls of the stomach, was diluted and submitted to the action of certain liquid reagents—substances, which when applied to a solution containing arsenic, throw down precipitates of peculiar colours. Those used by Dr. Mitchell, were the ammonical sulphate of copper, which throws down a bright green, probably known to you under the name of Scheele's green—nitrate of silver, which produces a straw yellow—and sulphuretted hydrogen, the great detector of metals, which causes a lemon yellow precipitate. What was the result? Failure—total, absolute failure. Had the tests succeeded in striking their characteristic colours, still they would not have been decisive. The weight of authority is, that they are to be regarded as mere presumptive evidence of arsenic, fallacious, inasmuch as various substances besides arsenic, occasion analogous appearances. Here their failure was complete. Dr. Mitchell entirely disregards them in forming his opinion, and my

learned friend has prudently abandoned them in his argument. But I will not abandon them—I hold them up here to your view, I insist upon them as a strong ground of the defence. They furnish me with a powerful argument drawn from the failure of an experiment conducted with all the skill and caution, which, in his absence, I may be permitted to say without fear of giving him offence, that very accomplished and able chemist is known to possess. But they did not stop here. The suspected substance was divided into three parts, and placed in three separate tubes, each of which underwent the same process, but all attempts at reducing the metal FAILED. The best evidence has not been, and could not be, procured. What is the inference? Does it not react, with overwhelming force, on all the presumptions produced by the liquid tests, the morbid appearances, the symptoms?

No poison was found. In the terse language of Dr. Togno, no poison—no poisoning. I cannot here forbear a remark on the manner in which the gentleman who preceded me, poured the vials of his wrath on that learned and accomplished physician. He has, it is true, not as an obtrusive amateur, but a witness coming here under the process of this Court, ventured to express his own solemn conviction, in opposition to the array of professional learning produced by the Commonwealth. And what is to be the forfeit of such daring presumption? His scientific reputation ;—and Mr. Reed it seems, sincerely as he deplores it, is the Priest who is to offer up the sacrifice. Permit me to say, without meaning any disrespect to the gentleman, that he has on this occasion acted rather the butcher than the priest. Dr. Togno, he tells you, has himself furnished the weapon, and pointed out the “vital spot.” With an air of triumphant satisfaction at having, as he supposed, demolished the Dr. by throwing in his teeth the very authority he relied upon, he read to you several cases from Christison, p. 48. Let me ask, do these cases, in the slightest degree, impeach what Dr. Togno said? In the words of the witness, as Mr. Reed himself has quoted them—“Christison, in every instance where he has analysed the stomach of a person dying by arsenic, found the arsenic by reduction.” Has the gentleman shown you, can he show you, a single instance where Christison and Orfila have analysed the stomach of a person dying by arsenic, without finding the poison? When the learned gentleman has shown you such an instance, it will be time enough for him to triumph over Dr. Togno’s suicide.

But it is contended that the analysis has not failed. It is said that a strong garlick smell was produced, and the most fallacious of the human senses is, in a matter of life and death, made the ground of serious reliance in opposition to the unanimous voice of the most respectable authorities—to Christison himself, who tells you that it ought to be altogether discarded.—p. 185.

Both the medical witnesses examined on the part of the defendant, think the alliaceous odour is not to be depended on; so little reliance is placed on it by Dr. Bache, that in Fanner’s case it was not sought after. Jaeger says “it is a very insufficient test.” Berzelius, the great northern light, tells you “that it is always doubtful.”—*Traité de Chimie*, vol. ii. p. 452. Orfila does not consider it at all more decisive. In vol. i. p. 357, he says “this character belongs to other substances;” “besides,” adds this profound author, “does it not often happen that we are deceived as to the true character of odours. Mr. Vauquelin and myself, were the reporters in a case of poisoning: the suspected matter was thrown four several times on burning coals, and twice only we thought we recognised the odour of garlick; we soon assured ourselves that this matter did not contain an atom of arsenic. This character is to be considered as an indication, not as a *proof*, of the presence of arsenic.” But authority it seems, is, on this point, to be entirely disregarded. Boldness is the characteristic of the age. The world is now, for the first time, to be informed that Christison, and Jaeger, and Orfila, and Berzelius, have all been mistaken—grossly, inexcusably mistaken. And how has Mr. Reed endeavoured to combat this powerful host of authorities? By an eulogy on Mr. Clemson’s olfactory powers. He, it seems, can distinguish the shadow of a shade of a sinell of arsenic. That is not all; the moment one among several tubes was submitted to him, he pronounced it, without hesitation, to contain arsenic. The little incident which occurred before your eyes, of the tube which he pronounced with equal promptness to contain mercury, when in fact no mercury was there, only shows the propriety of hesitation in matters so liable to deception and mistake. To err is the attribute of humanity, and Mr. Clemson will think I do him no wrong, when I say, that with all his well earned experience in the School of Mines, and the laboratory of M. Robiquet, he, too, may be mistaken in the shadow of a shade of a sinell of arsenic.

But does not the failure of the attempt at reduction, react upon and entirely destroy any presumption of arsenic raised by this garlick smell? The odour, you are told, is produced by the fumes of the volatilized metal, which crystallize on the internal surface of the tube, and form the arsenical ring. If there was metal enough to produce the arsenical odour, there was also enough to be reduced. Mr. Clemson tells you he has never been deceived in finding the metal when he has found the odour, and Dr. Bache thinks that if there were enough arsenic to retard putrefaction, as my friend contends, there was also enough to abide the final test. Why then was it not found? Why did it not abide the final test? This is the question which perpetually recurs with overwhelming force. The minuteness of the quantity of arsenic that may be restored to its metallic state by this process of reduction, is such as almost to exceed belief. Four or five grains of arsenic are said to be the smallest quantity that will destroy life. Yet we read of the 300th part of a grain being thus detected in a pure solution, and Berzelius has reduced a quantity so infinitely minute, as not to affect his exquisite balance. Dr. Mitchell thinks that even in combination with the solids of the stomach, 100th part of a grain may be reduced, though with a modesty which we can appreciate without yielding consent to its justice, he says it would require more skill than he possesses. The 6th part of a grain, however, will unquestionably furnish three trials in even the most unskilful hands. These facts are too strong to be openly combated. Sensible of the force with which they must present themselves to your minds, Mr. Reed disposes of them in a very summary and convenient manner by the supposition, for I can call it nothing more, that the poison was entirely rejected during life, by vomiting. Be it so, I reply, what then becomes of Mr. Clemson, and his smell? What becomes of Dr. Mitchell's experiments? What becomes of the absence of putrefaction? Was there ever such a pattern of contradiction? They first boldly tell you arsenic is in the stomach, and then as boldly deny what they have just most lustily asserted. We are first told that the preservation of the body, and a strong garlick smell, manifest the presence of arsenic, and then with miraculous consistency we are asked to believe that the arsenic was rejected during life. And on what evidence? You have heard more of attempts to vomit, than of actual vomiting. The appearance of the gall-bladder, as described by Dr. Hopkinson, has an important bearing on this feature of the case. It is represented as partially distended. Now, if the vomiting had been so frequent and excessive, as completely to evacuate the stomach, without leaving a trace of arsenic behind, the gall-bladder would most probably have been found entirely empty.

We are now upon a plain matter of fact; one, too, of serious importance to the prisoner. Let us not indulge in suppositions and conjectures, however plausible and ingenious. The principle here contended for, may much abridge the labour of a prosecution; but I doubt whether it will advance the ends of justice. Every man who dies with an inflammation of the stomach, and symptoms of cholera morbus, may, by supposing the poison rejected during life, be proved to have died by arsenic.

The cases of Miss Blandy, decided in England, in 1754, and of Nairn and Ogilvie, in Scotland, thirteen years subsequently, have been referred to by my learned opponent, but I trust they are not held up as examples for our imitation. They are foul blots on the records of English jurisprudence. They were decided at a period when this interesting branch of science was in its merest infancy; in a country where, in the language of one of her favourite poets, "Wretches hang, that jurymen may dine." In this country, and at this day, they would be considered as little less than judicial murders.

Mr. Reed closed his remarks on the medical evidence, by reading to you the opinion of Dr. Mitchell, as to the cause of Chapman's death, and I shall conclude what I have to say on this point of the cause, by some observations on that opinion. I am fully sensible of the high consideration to which the testimony of that learned physician is entitled—a consideration derived from his well earned reputation, and enhanced by the impressive eloquence of its delivery. His opinion, however, must be tested in the same manner as that of any other individual, and if it shall appear that the conclusion at which he arrives is based in part on premises which have no existence, to build your faith on such an opinion would be to do him great injustice, and my client irreparable injury. His judgment is professedly founded on the symptoms, on the post mortem examination, and on the chemical analysis. If any one of these pillars of his judgment fail in any important particular, it must have material bearing on the whole conclusion.

The post mortem examination he acknowledges to have been imperfect; the chemical analysis yet more unsatisfactory. It is evident, therefore, that the symptoms which he detailed with such cautious particularity, entered largely into the formation of his opinion. One of these, was the absence of delirium. How is the fact? Refer to the testimony of Dr. Knight, you will find that so far from his intellectual faculties being complete and unimpaired on Tuesday evening, Chapman was delirious; his expressions wild and incoherent, his conduct that of a man whose reason has been invaded.

He refers also to the preternatural rigidity of the body after death—*Preternatural!* I think he would scarcely have used the term, if he had been present at the second examination of Mr. Bouthcher, which satisfactorily explained that appearance by the length of the interval between death and the preparation of the body for its final and cheerless abode.

Another circumstance that exercised an important influence on his opinion, was the discharge indicative of a diseased rectum. Dr. Mitchell himself tells you, it might be occasioned by a variety of natural diseases.

In speaking of the reduction of strength, and coldness of extremities exhibited by the patient, the Dr. uses the epithet “very extraordinary.” If the term refer to the intensity of the symptoms, it has no foundation in the evidence. Does he mean that the symptoms themselves are unusual and extraordinary? I apprehend not; for, if I am not mistaken, they are enumerated among the usual and ordinary symptoms of cholera morbus.

In speaking of the state of the mouth, he uses the term *parched*, which certainly expresses a greater intensity of the symptom than *dryness*, to which the evidence is confined. Removing, therefore, from the catalogue, those symptoms which either did not exist at all, or whose existence is satisfactorily explained, you have a case of sudden and violent attack, attended by sickness, vomiting, and burning pain; a small and tremulous pulse, a dry mouth, and calm dissolution. How analogous to an ordinary case of cholera morbus!

I submit, therefore, with the utmost deference, that an examination of Dr. Mitchell's opinion removes the sting from it, and leaves your judgment free and untrammelled by the high authority of its author.

I shall here take leave of the medical witnesses; in relation to whom, I have perhaps drawn too largely on your time and patience. Let the importance of the subject, and an imperious sense of duty, be my apology.

The conclusions to which I have endeavoured to arrive, are:—

I. That the symptoms in this case do not establish poison, because they are analogous to natural disease.

II. That the morbid appearances do not establish poison, because they too are analogous to natural disease.

III. That the chemical analysis, does not establish poison, because

The liquid tests, even when they exhibit their characteristic colours, afford only a presumption of poison; but when, as in the present case, they fail to exhibit their characteristic colours, they afford not even a presumption of poison. By the concurrent voice of the best authorities, the garlick smell ought to be discarded as a test for arsenic. Reduction is the only test that is conclusive, and ought to be received in a capital cause. That test having been tried and failed, its failure reacts upon and negatives every presumption of arsenic.

Such, gentlemen, is the medical evidence of poison. The symptoms, the morbid appearances, the chemical analysis, are each imperfect, unsatisfactory, and inconclusive. To convict on the evidence of any one alone would be little short of murder. The warp and the woof are both rotten and unsound. What then must be the strength of the texture? Can the superstructure be durable which is reared on a foundation of such inherent weakness? Grant that the evidence is sufficient to satisfy a chemist or a physician, as a mere matter of scientific research. Does it carry conviction to your minds as jurors, engaged in an investigation of such awful solemnity and importance? Can you say, after the unequivocal testimony of the learned and able medical gentlemen examined on behalf of the defendant that you are morally certain that Chapman died by poison?

But that is not all: Our ingenious adversaries have thought it necessary to bolster up this part of their case by what they call an admission of the defendant. In a

letter written by her to the Mexican consul, at Philadelphia, she speaks of being paralyzed at the thought that it was probable her husband had been poisoned. And these expressions denoting the innocent confusion of a mind unable to realize what was then reiterated from every corner of the State—what every newspaper throughout the country teemed with,—the probability of her husband's murder—constitute the confession on which Mr. Reed has rung such loud and frequent changes in the course of his argument. How uncharitable and unjust is it thus to torture and misinterpret expressions the most natural and simple. I confess I can hardly speak of it without emotion, because it is neither right nor proper that a man's life should in the slightest degree be jeopardized by forced constructions and wire-drawn conclusions.

There is yet another grave and weighty proof of poison which has been seriously urged, but which it is difficult to treat with any degree of seriousness. I allude to the mysterious death of the poultry. It is contended that they too died by the administration of poison. The manner in which these unfortunate animals were thus cut off in the bud of youthful promise, whether by poison, or by fish water, or lime water, or what not, will probably long remain a matter of mystery and winter evening's conversation in Mr. Boucher's family. It was necessary, however, for the prosecution to connect their untimely end in some manner with the defendant. How to do it was the question. It was at first supposed that they too, like Chapman, must have eaten of the poisoned soup (made, you remember, with a fowl taken from Mr. Boucher's flock,) which was thrown into the yard on Monday afternoon. Ann Bantom, however, settled that by saying that the soup was thrown upon the naked ground, and not into the paved gutter—and Mr. Reed has given the whole story its quietus by granting that there was no poison in the soup which was thrown into the yard. Indeed the utter impossibility of connecting the calamity of the poultry in any manner with Chapman's death, or with the defendant, was so obvious that Mr. Reed soon abandoned the ducks to their fate.

I submit, therefore, gentlemen, that the Commonwealth has failed in establishing the great and fundamental point of the cause that William Chapman died by the administration of poison. Let us suppose, however, that it has been proved to your satisfaction, that Chapman was really poisoned—poisoned, if you please, by the very arsenic which Mina purchased. Are you, therefore, to believe that that poison was administered by the defendant? This is the next and most important question presented for your consideration.

In deciding on a question that must irrevocably seal the destinies of a human being, I feel confident that you, gentlemen of the jury, will proceed with all the cautious circumspection which the importance of the stake demands. If guilt shall openly encounter you, you will meet it with firmness and visit it with the terrible sanctions of the law. But I feel assured that you will not either with a view of gratifying the malevolence of the defendant's enemies, or of vindicating the insulted justice of your country, turn aside from the obvious high road of the evidence, to search amidst conjecture, mystery or suspicion, an apology for conviction.

It will be my duty on the present occasion to disentangle the web that has been thrown around the defendant, by the zeal and ingenuity of my eloquent friend who assists in the prosecution.

And I shall begin by claiming at your hands for this wretched female, that benefit which the law benignly extends to the meanest criminal arraigned for the most trivial offence—the *presumption in favour of innocence*. It is her birthright, as an American citizen. You cannot refuse it to her. I am sure you would not if you could. It is the corner stone of our criminal jurisprudence—a time honoured monument of the justice and humanity of our laws—which has survived the rudest shocks of the most sanguinary ages. I beseech you then, while you sit in judgment on the defendant, never to lose sight of the glorious principle whose application none of you can tell how soon he may have occasion to invoke—that every man is presumed to be innocent till he is clearly proved to be guilty.

This being the sacred privilege guaranteed to my client by the law of the land, I must solemnly protest against the mode of argument adopted by the Commonwealth in this case. My learned friend inverts the law—rolls back the stream of justice. He presumes the defendant to be guilty—then exerts all his force and ingenuity to bend the facts to the unfavourable presumption; while every circumstance

that weighs in favour of her innocence is construed into deceit, colour, pretext, a stalking horse for murder. Gentlemen, is human life so cheap, that it may be thus sported and trifled with? Such palpable injustice would shock the tribunal of an eastern despot. But in a land of enlightened freemen, in an age of light, humanity and philanthropy, it could not be for a moment tolerated. No; you must presume the defendant to be innocent—it is then your duty to say whether her conduct, and the circumstances of the case, do not harmonize with that presumption. This is the rule of universal justice—the rule which the learned court will dictate to you, and on which I shall request you to found your verdict.

Keeping, then, steadily in view the great principles of the law, that every presumption is in favour of innocence, and that the inculpatory proof, however probable, must leave no room for innocence to co-exist: let us examine the evidence which the Commonwealth has presented you of the prisoner's guilt?

We have heard much in this case, gentlemen, about motive. It is the incessant cry of the prosecution; the defendant had a motive to commit this crime.

Who is there, I might ask, that has not a motive to commit crime? The world is animate with motive. Temptations and seductive allurements are spread in glittering profusion over the path of life—they arrest you at every step, and were it not so, what would remain for virtue to achieve? My learned friend pictured to you an enviable prospect of Andalusia in its bright days of innocence and peace. Under the touch of his pencil it grew into a little Eden. Joy beamed from every eye—the melody of heaven hung on every lip. Domestic happiness—the affection of a tender husband—the smiles of an interesting family—all these were powerful inducements to virtue and to honour—yet all these could the defendant sacrifice without a tear upon the polluted shrine of avarice and unholy passion. Do you think that these considerations, which Mr. Reed has so eloquently described, weigh nothing against the criminal motive? When you tell me that the ruffian, hoary in crime, who has neither character to lose nor to acquire, has a motive even to destroy life in the acquisition of wealth, the proposition is intelligible: but that one who has ever borne a reputation free from stain—a communicant at the altar of her God—the parent of five children, whom she had taught to worship that God, bound to duty by every tie of religion, parental love and conjugal affection, should condemn herself to endless misery—her offspring to perpetual obloquy—depend upon it, gentlemen, the motive to commit such an act is lost in the inducement to abstain from it.

The love of money was one, but not the leading motive which Mr. Reed suggested. It is said that the defendant bowed before an idol even grosser than Mammon. You are told that every principle of virtue—every sense of shame—every feeling of common decency was consumed and extinguished in the lurid fires of criminal passion. A matron and a mother is accused of committing this crime for the purpose of enjoying the embraces of a guilty paramour.

I do not know that I am called upon on this occasion to defend the scrupulous delicacy of the defendant's conduct. Still, let her not rest under aspersions uncharitable, unjust, and unfounded in the testimony of the cause. If criminal passion had been the motive that actuated this defendant, could not that passion have been gratified without a husband's murder? Speculation, however, on such a subject, is useless. I call your attention to the evidence, which alone can govern your decision. Passing by Mary Palethorpe, whose testimony, except so far as it contradicts the witness who succeeds, is wholly unimportant, comes the redoubtable Ellen Shaw—the head and front of the prosecution. Her testimony is ushered in with palpable contradiction, and glows throughout with malevolence towards the defendant. She describes to you the manner in which Mina presented himself at the house; a suppliant for alms and petitioner for a night's lodging. She tells you with the utmost confidence that Mr. Chapman himself admitted him, and even repeats a conversation that took place in the house. Yet Mary Palethorpe and little Lucretia, both in the room at the time, and therefore more likely to be correct than Ellen, who was milking the cows in the yard, tell you that not Mr. Chapman, but one of the boarders opened the door and brought Mina into the house. With an intuitive perception, she seems at the first glance to have discovered the cloven foot of the stranger. He was a Spaniard, and to be a Spaniard was enough—the very name was, in her mind, associated with poison and the stiletto, and all that is dangerous and horrible. This virtuous maid would have you to believe that in the short space of one month after

Mina's arrival, the defendant's conduct had reached to such a height of bloated wantonness that she was actually compelled to leave the house to save her own blushes. Extraordinary delicacy! I fear the age has become too gross for such refinement. What, after all, did the witness see thus to shock and outrage her moral sentiment? She informs you that her business confined her pretty closely to the kitchen, which was in the cellar, where she had no assistance. This proves beyond a doubt the truth of what she herself told you, that "she had little chance of seeing them." I quote now her very words. Yet in the same breath she has the audacity to say—that the defendant and Mina were in the room together almost all the time—in a private room too,—as if there was something peculiarly private in their association—and yet this private room turns out to have been nothing more nor less than a common parlour. This is not all, however. Though her business thus closely confined her to the cellar, she seems to have known every thing that was passing in the third story—for she is now able to testify that she has often seen the defendant in Mina's apartment. In support of this sweeping and unqualified assertion she has particularized two occasions. Once in the evening, about 8 or 9 o'clock. The question naturally arises—Was the door open? If it was, it acquits the defendant of the slightest shadow of impropriety. Was it shut? How then does it happen that this virtuous female, who was obliged, forsooth, to leave the house for very modesty, comes at this hour of the night, to the room of this dangerous Spaniard: so dangerous, that, in her own language, *a body did not know what he might do*. On the other occasion she went for the purpose of receiving some direction from the defendant, and happened to find her in conversation with Mina. Was there any thing criminal in that? She saw no confusion—no impropriety—nothing but an ordinary conversation.

Now, gentlemen, let me ask you as candid and liberal men, suppose that the defendant and Mina sat together, rode together, and talked together, as much, aye, more, than all the witnesses have told you. Could any thing be more natural or more compatible with her innocence? It is in evidence that Mina came to that house a helpless mendicant—that he was received there in the purest spirit of Christian benevolence—that he found a home in the bosom of their family—that he was regarded as a son by both Mr. and Mrs. Chapman. His supposed misfortunes excited sympathy; a sympathy which was not diminished by the story of his family and wealth. That they should have showered attentions, caresses, and indulgences on a Governor's son, whose grandfather owned a silver mine, was the most natural and at the same time the most innocent thing in the world. He was also avowedly engaged in acquiring the English language under the defendant's instruction. It is further in evidence that he was liable to frequent attacks of disease which required the constant attendance of those around him. Under all these circumstances, that frequency of association, which has been made the subject of so much and so severe remark, is explained on the most innocent and justifiable motives. Yet this, I presume, is what Mr. Ross called divorcing herself from her husband.

But then the visit to Joseph Wright's! If any thing were wanting to exhibit in broad relief the temper of Ellen Shaw's testimony you have it in this relation. I beg you to apply it as a touchstone to the rest of her evidence. According to the veracious Ellen's examination in chief, as I have it on my notes, "Mina was lying down in Mrs. C.'s lap nearly all day, and singing love songs, and when they arrived at Wright's they took a walk into the woods, and were gone some two or three hours." Standing by itself, unqualified and unexplained, you have here a scandalous outrage upon common decency. Now mark, I pray you, the mental reservation of the witness. She had just taken upon herself a solemn obligation to tell the *whole* truth; and yet it was only by the able cross-examination of my colleague that the whole truth was extorted from her unwilling lips, and she stood before you in all the moral deformity of wilful and malicious reservation. It turned out that the whole ride was an act of pure kindness on the part of Mrs. C. to accommodate the witness, who wished to visit a relation then at Wright's. They found the house a scene of the utmost bustle and confusion. Whitewashing, scrubbing, and other domestic operations drove them out of doors to seek shelter in the woods, while Ellen remained behind; not, however, till she had declined their invitation to accompany them; a fact which she did not think proper to acquaint you with in her examination in chief. She forgot, too, to relate a circumstance, which was also left for cross-examination to elicit,—that this little butterfly, as she now indignantly calls him, had the presump-

tion to light in her lap in the very same manner as in Mrs. C.'s. The defendant, too, sang love songs. O wanton depravity for a matron and a wife! Yet these love songs dwindle gradually into two or three pieces of a song, not one word of which can the witness remember, and this respectable lady on being questioned more closely does not appear to know the difference between a hymn tune and a love song.

Gentlemen, it is not the least precious of the much lauded benefits of trial by jury, that those peers who are to pass upon the lives, the liberties, and the fortunes of their fellow-citizens, have an opportunity of seeing how far truth is discoloured by the passions and the prejudices of the witness. I challenge you to point out in the whole course of your experience a more disgraceful instance of intemperate zeal than was exhibited by Ellen Shaw.

What think you of a witness who gratuitously infers that Mrs. C. came from Mina's room, simply because she met her on the stairs in the morning; who openly professes to found her opinions *on the manner in which things have turned out*; and who accompanies the admission, which reluctance could not conceal, that religious services were regularly observed in that family, with the sneering remark, *much good did it do*. Is this the language, the spirit, the deportment of a witness of truth, in a case where life is concerned? You marked the manner in which, like the hound whose energies are animated by the scent of blood, her zeal seemed to gather strength, and her fury to swell upon her second examination. Though repeatedly pressed by the counsel when first presented, and even urged by the honourable Court to state the extent of her knowledge, after five times solemnly declaring that she had told all she knew, she comes a second time before you to eke out her story with the miserable shreds and patches which her memory, excited by the image of the old woman who was picked up from the road to supply her place, had in the mean time conjured up. She volunteers in the cause of blood; she is willing to tell all she knows; I fear she is even willing to tell more than she knows. She now vamps up a story that Chapman, poor man, was actually compelled by the defendant to make his own bed, under the penalty of receiving a scolding, and going without his breakfast. Yet after all, it turns out that the substance of this ridiculous charge is confined to Chapman's helping his daughter to turn over a bed, which was too heavy for the little girl to manage. She is now also able to call to mind a scene which took place during the defendant's absence at Philadelphia. This argus-eyed sentinel of her master's honour, ever "busy and insinuating," whispers into the ear of the distracted husband, the surmise that his wife had eloped with the Spaniard, and gone to Mexico. She has had the kindness, however, to impart to us the ground of her suspicion. She tells us that one day, which from her own dates must have been shortly after Mina came to the house, Mrs. C., while at work in her chamber, introduced the subject, telling the witness that Mina was a dear young man, and that they were going to Mexico together. Now I put it to you, as men of common sense, whether it is possible to believe the defendant so utterly destitute of reason, as to call her own maid servant, whose disposition towards herself and Mina she was well acquainted with, and make her the confidant of a deliberate scheme to run away from her husband and her children with a stranger, whom she yet hardly knew.

Thus much for Ellen Shaw. It will remain for you in the exercise of that discretion, with which the law has peculiarly invested you, to say, to what degree of credit testimony, disfigured by such palpable prejudice, and undisguised ill feeling towards the defendant, may be entitled.

I pass by, as entirely unworthy your attention, the little breaks in the harmony of the defendant's marriage life, which have been detailed and magnified by this and other witnesses. There is enough of serious matter in this interesting cause, to occupy your time and attention, without detaining you with trifles like these. A cloud will sometimes float over the serenest sky. Domestic differences will occur in the best ordered families; but decency throws a veil over them, which it is scandalous to remove. Let me, however, once for all, make a general observation on this subject, the truth of which every man's experience must have tested. The whole force and import, innocent or criminal, of expressions like these, must depend on the peculiar manner, tone of voice, and circumstances under which they are uttered. Here you listen to the excited tones of prejudiced witnesses—you receive their partial construction, you view every thing through the discoloured medium of their jaundiced vision. The defendant might most innocently have told her husband she wished he was gone, in such a tone and manner as to be consistent with perfect

harmony and good nature. She is accused of being highly tempered. It may be so. She has no doubt faults, which it is not my duty nor my wish to extenuate. There is one circumstance however in her history, which to my mind entitles her to considerable indulgence. You will remember, that from youth upwards, she has been occupied in the duties of public instruction. Is it to be wondered at, if during that time she has acquired something of the authoritative tone and temper, which seem the natural attendants on a profession, subject to a thousand daily irritations, and to the exercise of which, the habit of command is vitally essential? One little fact in the cause, which admits of no contradiction, speaks volumes in the defendant's favour. She lived more than twelve months under the same roof with Ellen Shaw.

Let us pass to the testimony of Mrs. Bache, whose importance in this prosecution I am really at a loss to conceive. She was at Andalusia two days in all, during which time she ate three meals in company with the defendant, at one of which, wonderful to relate, Mina sat at Mrs. C.'s right hand! Where, in the name of common sense, should he have sat? It is much to be deplored, that neither the law nor Mrs. Bache, has furnished us any rules to guide us on such occasions. Whether Mina sat at the head or the foot of the table, at the defendant's right or left hand, is, I apprehend, a matter of much indifference to the merits of this cause. Table etiquette on a criminal trial! Gentlemen, if such trifles as these are to be seriously urged on a trial for a man's life, which one of us is safe, which one of us can say for a moment that his life is his own? But then, too, it appears, that Mina in conversation, gave Mr. Chapman a very ill look. That we can all very readily conceive, for he is certainly an extremely ill-looking personage, and did nothing but give us and you, gentlemen, ill looks while he stood at the bar. But I cannot understand on what principle of reason or justice, the defendant is to be affected by Mina's good looks or ill looks, nor by the simple circumstance, that observing Mrs. Bache's expression of surprise, she naturally interposed with the explanation which the witness has related.

Mrs. Bache goes on to tell you that on the morning she arrived at Andalusia, the defendant was shut up in a room with Mina, avowedly for the purpose of attending him during a fit. Not a little has been said in relation to these fits. Slander has made a handle of them for the purpose of fabricating a foul and most malignant aspersion on the defendant. It has been insinuated, and even openly urged, that they were merely simulated, put on as a pretext for guilty converse and association. In the name of Heaven, Gentlemen, in the absence of all evidence that these fits were thus falsely put on for a guilty purpose with the privity and knowledge of the defendant, can any thing be more scandalous, inhuman or unjust, than such an imputation. The kindest benevolence, the purest charity of life, that charity which ministers hope and consolation to diseased humanity, is thus converted into an unnatural agent of the defendant's destruction. Has the merest shadow of evidence been presented to you, that these fits were simulated, or that the defendant did not believe them to be genuine. Not at all. Yet you are asked to presume, in the absence of all proof, first, that they were not real; secondly, that the defendant knew them to be false, and acted on that knowledge. If she believed them to be genuine, and acted on that impression, it matters not to her cause, what was their real nature. That such was the sincere belief of this unfortunate, and in this respect, much calumniated woman, is placed beyond the reach of question by the evidence of the cause, by the letters which have been read to you; in which she speaks to him of his infirm health, and reminds him of her attentions to him during sickness—letters you remember, written after Chapman's death, when concealment, if concealment were even desirable, was no longer necessary; letters never intended for your inspection, but written in all the secrecy and confidence of the most intimate communication.

Gentlemen, will any one but the vampire, that fastens and feeds on fallen reputation, say after this that the defendant knew those fits to have been feigned, and used them as a cloak to criminal association.

I shall detain you but a moment with the testimony of Ann Bantom, in relation to this portion of the case. She has seen Mrs. Chapman and Mina in the back parlour together, she has seen them ride out together. Can any thing be more consistent with her innocence? It is in evidence that she was the managing person, the active superintendent of the household, and in the frequent habit of taking with her her pupils in those rides, which innocent recreation or the business of the insti-

tution required. There is but one other circumstance related by this witness to which I shall call your attention, from the manner in which it has been magnified beyond its natural proportions. On Tuesday afternoon of the last week she was there, the witness, the defendant and the children were in the parlour where Mina had a fit. On his recovering about dark, Mrs. Chapman requested them to retire. How long she remained in the room, five minutes or five hours, the witness is unable to say; but on going out on the porch, she saw that the window shutters were closed. A most extraordinary occurrence, to be sure! Very suspicious and unaccountable, that windows should be closed about dark! Gentlemen, is it not cruel that such ridiculous trifles should be seriously urged on a trial for life and death? The state of Chapman's feelings during the three days' absence of the defendant in Philadelphia, has been brought in judgment against her. You have been presented with a melancholy picture of a distracted husband, frantic with the injury inflicted on him by one whom he had fostered as a son. For a particular description of this heart-rending scene, we are indebted to no less a personage than Edwin B. Fanning, the mysterious pedlar, whom fame had blown into a portentous magnitude, wholly undeserved. Certainly a grosser imposition never was palmed on public curiosity; the mountains never laboured with a more contemptible offspring. His importance vanished before the light of investigation, as some "extravagant and erring spirit" before the summons of the dawn. Some little good, however, he unintentionally did to the defendant, by adding another contradiction to the testimony of Ellen Shaw. She told you that the defendant and Mina went to Philadelphia, unaccompanied by any other person. Fanning says they were attended by her son William. On the evening of the second day of their absence, he tells you that Chapman became uneasy, and he would have you to believe that the wretched husband made him, stranger as he was, the depository of his griefs and the guardian of his wounded honour; that he unburdened to him his afflicted soul, told him that Mina was an imposter, hinted his suspicions of his wife's fidelity, and even threatened instant vengeance on the treacherous Spaniard. Yet all this furious gathering of the storm bursts in a shower of gentle sympathy for the man whom he had just branded as an impostor, and whom he had sworn to kill. In the language of the witness himself, "he mourns with the mourner," he expresses no displeasure at the author of his shame, he attempts to comfort the disturber of his peace, the spoiler of his dearest joys—his sacred honour. After this, he gives the order on Mr. Watkinson; after this he gives the order on Mr. Fassitt. Gentlemen, the conduct of Mr. Chapman is irreconcilable, unaccountable, and absurd. If his feelings are to be invoked on this occasion against the defendant, his state of feelings afterwards neutralises his state of feelings before. His affection subsequently displayed towards Mina is irreconcilable with his vengeance previously expressed—is a waiver of all suspicions which the busy Ellen had infused into his mind against the defendant and her conduct.

On the 16th June Mina purchases the poison at Durand's, and this is the damning fact which Mr. Reed told you threw a dark and lurid shade upon the prisoner's case. How does it affect the prisoner's case. How is the defendant in the slightest manner connected with that act? either by prior command or posterior consent. It is not even in proof that she accompanied Mina to Philadelphia on that day. The ingenuity of my learned friend has been sorely taxed to ferret out a connexion between the defendant and the poison. If I understand him rightly, he does not allege it to have been purchased with her previous knowledge or consent. He supposes her all ripe and ready for the deed, and only balancing to take another look at the golden lure. Mina accordingly forges the letter from the Mexican Consul, and is supposed to come in bearing the poison in one hand, and Mr. Cuesta's letter as fresh credentials of his character in the other. Mrs. Chapman, till then, wavering and uncertain, is unable to resist this new testimonial of her seducer's wealth and grandeur, and plunges headlong on the bait. Gentlemen, the theory may do credit to my friend's ingenuity, but it has not the slightest foundation except in his imagination. The prosecution has not in this instance even the shadow of a shade of evidence to support it. To such forced and strange presumptions—to such ridiculous and unnatural hypotheses, are they compelled to resort in order to take away the life of this defendant.

On Friday, the 17th June, Chapman, after supping heartily on highly deleterious food, was taken violently ill; and this brings us to the second great point of our present inquiry, the conduct and deportment of the defendant during her husband's

illness. The allegations of the prosecution would lead you to believe that she had treated her husband on his bed of sickness with the most barbarous inhumanity—had permitted no one to visit him, and ministered not even the relief which Christian charity would have dictated, much less the tender attentions of a wife. What is the evidence to support so serious a charge? It is in evidence that on Saturday she was prevented sending for her family physician by her husband, who thought very naturally that the doctor would only give him medicines, and having, as you have been told, "some medical ideas of his own," he prescribed for himself some cholera morbus drops, which he kept about the house. On the following day the defendant sent before breakfast for Dr. Phillips, who soon arrived; and finding his patient indisposed, with a slight attack of cholera morbus, prescribed some gentle medicines—and let it not be forgotten, chicken soup was among the prescriptions.

The tragedy now approaches its consummation. The motives which for two months have been secretly operating, have reached their full blown maturity, and are now developed in as dark and horrible a deed as the sun e'er rose upon. On the 20th June, if this indictment tell the truth, the defendant administered deadly poison to her husband, through the medium of chicken soup. Let us look at the evidence.

On the morning of that day, the defendant, who has been accused of refusing to administer the physician's prescriptions, makes the soup which Dr. Phillips had prescribed. It certainly cannot be made a matter of objection that she assumed the duties of the cook who was sick, and made the soup herself. Take Ann Bantom's account of the transaction, and see in what a maze of absurdity the charge is involved. According to her statement, Mrs. C. takes the soup in a bowl to the parlour, for the alleged purpose of seasoning it. The witness follows her into the parlour for the purpose of procuring something, she knows not what, from the closet, and having obtained her object, immediately leaves the room. And this is the whole extent of her knowledge as to the soup, till it is brought down into the kitchen near dinner time. She did not see the defendant put any thing into the soup while in the parlour. She does not even know how, or by whom, it was carried up to Mr. C. But she saw Mina in the parlour with the defendant when the soup was taken up, doing nothing to be sure: but still he was there, and suspicion asked no more. From the simple circumstance of the defendant's going into the parlour where Mina happened to be, is hatched all this story about poisoned soup, which is set forth in this indictment. You are asked to presume, without any evidence, first, that there was poison in the soup; secondly, that it was put there by the defendant while in the parlour. A more ridiculous and unfounded story never was attempted to be imposed on the credulity of twelve rational beings. But why need I remark on the absurdity of the charge? Only carry it a little farther, it crumbles to pieces in its own weakness. If the defendant was really guilty of having, in the language of the indictment, "mixed and mingled certain deadly poison, called arsenic," in this soup, was any thing in the world more easy, than to have thrown the remainder out of the window, or disposed of it in a way that would never come to light? But no. She brings it down stairs. Does she request Ann Bantom not to give it to the children or the domestic animals, or even to throw it away at all? No. She places a bowl of poisoned soup, open and uncovered, on the dinner table of a common kitchen, to which her children had constant access—next to the very room in which those children sat. What! was it not enough that she had destroyed the father—must she destroy her own offspring too—her servants—all? Not content to sap the parent trunk, will she involve these fair scions in one wide-sweeping act of destruction? Believe it who can! It has no parallel in crime—History is mute of such iniquity—The remorseless hyæna cherishes its offspring—and nature breathes into the most abandoned heart some feelings of parental love.

Struck with the monstrous absurdity of the story, my learned friend has again endeavoured to supply it from the copious resources of his fertile ingenuity. He supposes, without a single particle of evidence to support the supposition, that the defendant took part of the soup from the bowl, mixed the poison with it, administered it to her husband, and then brought the remainder to the kitchen. Merciful heaven! Shall there be no limit to supposition—no bounds to conjecture? Better give up at once this useless mummery of a trial, and let fall the axe without torturing the victim. To hear such matters gravely urged on a trial for a man's life, does indeed carry back the recollection to the tribunals of Venice and the days of

English state prosecution, when accusation and conviction were the same—when courts were sufficiently corrupt, and juries sufficiently venal, to catch at an apology for conviction. Those days are passed—but they live in history, an awful beacon for posterity.

Gentlemen, I fear I am only wearying you by insisting on matters of such simple demonstration. One word more and I have done with the soup. Let us admit the learned gentleman's supposition. There was no poison in the soup on the table. Ann Bantom threw that soup into the yard, how then did this harmless soup make such terrible havoc among the neighbour's poultry?

So much for this absurd and ridiculous story about the soup. Let us now examine Ann Bantom's account of the chicken. She tells you it was taken up to Mr. Chapman in the afternoon, brought down entirely, or almost entirely untouched into the kitchen, where it remained, till this economical domestic of her own accord threw it about dusk into the yard. She cannot say whether it was left covered up in the pot when the soup was taken out, by whom it was taken out of the vessel or carried up stairs to Mr. Chapman; whether it was whole or in pieces; or how long a time elapsed after it was taken up, till it was brought down. Neither did she particularly notice whether, how much, or any of the chicken was eaten. You will not wonder at the imperfect knowledge and indistinct recollection of the witness when you reflect that the shed, not the kitchen, was the scene of her labours on that day. I ask, is this account satisfactory to your minds? Is it a usual thing? Does it fall within the range of ordinary observation and experience, that in a moderate and thrifty household, a whole chicken should be thrown uneaten out of doors? Contrast this relation thus blurred with suspicion and stamped with improbability, with the simple, straightforward, probable narrative of Lucretia Chapman. It is true she is the daughter of the defendant, and could not, therefore, escape the stroke which is levelled for the destruction of the mother. She is not to be believed because the blood of the prisoner courses through her veins. The sins of the parent are to be visited upon her innocent offspring. Gentlemen, I confess there was something in the open, artless, juvenile simplicity of that interesting little girl which carried to my mind relentless conviction of her truth. Could any one listen to the serious and touching manner in which, with an apprehension almost beyond her years, she expressed her sense of the solemn obligation that was to pass her lips, and think that she was about to blast the morning of so fair a life with a wilful and deliberate perjury? Her relation too, carries with it intrinsic evidence of truth; it is natural and reasonable; it is supported by all the probabilities of the case. She speaks with positive and pointed certainty of facts which came within her own observation, and which must have made a vivid impression on her memory. She was present in the chamber of her father when the soup and chicken were brought up together. "Pa ate a few spoonfuls of the soup, but he ate very hearty of the chicken," are the little girl's expressions. The chicken was a small one; and the remainder left, after this hearty meal, consisting of part of the back, the neck and the wing, were brought down by her and placed on the kitchen table. These are the pieces which were thrown into the yard, and which Ann Bantom calls a whole chicken. I think, gentlemen, that you must long since have been satisfied that the whole story of the chicken soup as related in the indictment is one mass of absurdities. Every attempt to fix the defendant with any specific administration of poison has entirely failed. It is only by vague inferences, drawn from her conduct, that the charge is attempted to be established. Let us return to an examination of that conduct during the period of her husband's illness. It has been repeatedly represented by the eloquent counsel for the prosecution, as unbecoming a wife, unnatural and unchristian. She has been accused of refusing to send for a neighbouring physician, on Monday evening, in spite of all the urgent solicitation of the pedlar: What was the reason? Fanning himself tells you—their apprehension of giving offence to Dr. Phillips, the family physician. The next day, however, a neighbouring physician is sent for; and the cry now is, Why did you not send for the family physician? The truth is, the family physician was sent for on Tuesday. Dr. Phillips received a regular application on that day, though he is ignorant of the source through which it came. Dr. Knight, who was called in on Tuesday afternoon, visited Mr. Chapman as often as the character of his disease required. On Wednes-

day, Dr. Phillips arrived, and a consultation of two physicians is held. Will it be said, after this, that there was any want of medical attendance? But this is not all. It was surmised, and even openly alleged, that the defendant refused to administer the physician's prescriptions, and thus cut off every avenue to hope. Where is the evidence of such extreme inhumanity? Dr. Knight knows of no refusal or neglect to administer the drugs prescribed. One thing is certain, that medicines were bought at Mr. Vandegrift's store. Was ever a defendant on a capital trial surrounded and beset with such extraordinary zeal. Her situation is one of unexampled hardship. When she does give medicine, she is accused of mingling with it poison—when she does not give medicine, she is charged with barbarity and neglect. Act as she will, it is equally decisive of her guilt. Was there any want of personal attendance on the part of the defendant? Remember her forlorn situation—her servant sick—five children to take care of—compelled to assume the offices of cook, maid, and nurse.

On Monday Fanning came to the house after dark, and remained with the sick man till 10 or 11 o'clock. During that time the defendant was twice in the room. She expresses her gratitude to Fanning for his kind attention to her husband, and relieves him from the necessity of remaining there during the night, as she herself would resume her watch around his bed side. And yet this is what Mr. Ross called turning Chapman's friend out of the room! Dr. Knight, on arriving, found her in the chamber of his patient. Dr. Phillips has borne honourable testimonials to her wife-like deportment. He witnessed no want of tenderness—in his own words, "there was nothing in his last moments unbecoming a wife on her part." When exhausted nature demanded an hour of repose, she leaves word to call her if she should be wanted. And yet it is said that Mr. Chapman, dying, has no one to take care of him! No one to take care of him? Why it is in evidence that, besides his two daughters, who alternately waited upon their father—even the neighbours were enlisted. Mr. Bishop was there; Miss Kemble was there; Mr. Bontcher was there. No, gentlemen, Mrs. Chapman's conduct, during her husband's illness, was kind, tender, attentive, befitting a wife and a Christian mother towards the father of her children.

Chapman is dead. He descends into the tomb, and nature vegetates and blooms over the victim of a foul and unnatural murder—attention slumbers; not a whisper of suspicion is heard. So deeply buried in the shades of secrecy has been the commission of this crime. It is to accident, says Mr. Reed, the accident of an intercepted letter, that justice is indebted for the clue to this labyrinth of iniquity. I wish, sincerely, that it had come through a purer channel than a violation of the sanctity of the public mail. Attention and curiosity thus excited, found enough in the conduct of my client, rash and indiscreet as I admit it to have been, to lay a foundation for the charge you are now trying. The current of public opinion, whose behests she had put at defiance, set strongly against her, and every day added new force to the stream of prejudice, till it swelled into the torrent that threatened to sweep our judgments before it.

We have now viewed the defendant's conduct from Mina's arrival till Chapman's death. Let us now trace it after that event, still applying the presumption of innocence, and see if it will not harmonize with that presumption. Chapman died on the 23d of June, and was interred in the afternoon of the following day. Was the funeral hurried; the body concealed; any guilty uneasiness displayed by the defendant? Not at all. She reposes the melancholy office of her husband's burial in the care of Mr. Bontcher—mentions the names of some few friends in particular, whom she wished invited; and requests him to do all that was necessary and proper in the usual manner.

On the afternoon of the funeral Mrs. Hitchborn called to offer her consolations, and the conduct of the defendant during that interview has been made the subject of remark. Mrs. Hitchborn introduced the conversation by inquiring the circumstances of Mr. Chapman's illness and death, which the defendant, thus interrogated, very naturally and innocently related. There is nothing, therefore, in that. But then it seems that she requested Dr. Knight to prescribe for Lino's convulsion fits: and every thing that she does or says in any manner connected with him is construed to her disadvantage.

What does the request prove? Nothing more than what I am disposed to admit—that she felt concern and interest in Mina's welfare. One thing, however, it does

prove, it vindicates most triumphantly the defendant from one of the foul aspersions that have been thrown on her. If indeed she knew these fits to have been feigned as a pretext for illicit association, why should she at this period request Dr. Knight's professional assistance? No jealous husband remained to watch over her movements. There was now no obstacle to the unbridled enjoyment of her will.

On the following day Mrs. Smith arrives at Andalusia, and the defendant makes her appearance in a white turban, which, to some fastidious judgments, perhaps to Mrs. Smith's, may have seemed highly indecorous and unbecoming, but which is really too trifling a matter to deserve your notice. The defendant, however, did not exhibit all that appearance of external sorrow which Mrs. Smith and Fanning, who returned to this den of murder on the following Sunday, seem to have expected. Believe me, Gentlemen, this is not the livery and the deportment of guilt. That would have exhibited itself in a flood of tears—a very tempest of lamentation. Had she displayed such grief, we should now be told it was all a solemn farce. No matter what may be the conduct she pursues, she is marked and devoted a victim for destruction.

The course of events carries us onward to a fruitful theme for accusing eloquence—the marriage of the defendant with Mina—the price of a husband's blood—the wages of guilt as it has been called—an act which more than any other has drawn upon her the odium and censure of the world. Well may she exclaim

“Some sullen influence, a foe to both,
Hath wrought this fatal marriage, to undo us.”

The world saw only the act, the indecent and revolting haste, without any of the alleviating motives. It was not to be expected that such a violation of those decorous observances which have their origin in nature, and which custom has elevated into inexorable laws, should escape the heavy lash of public censure. Far be it from me to derogate from these established usages of life. I know that they tend to soften and to humanize mankind—that they brighten while they strengthen, the chain which holds society together. I do not know, Gentlemen, that my duty on the present occasion, requires me to vindicate my client's character for delicate refinement and scrupulous regard for the decorums of life. If she has violated them, she is amenable not here, but at the bar of public opinion. She is not now on her trial for venial indecorum, but for crime, unnatural and hideous crime. But let me ask, are there no palliatives for her conduct? I feel that there are—strong and saving palliatives, and I appeal to you as parents, as men endowed with the ordinary feelings of human nature, whether this act, now branded with the name of treason, may not have had its source in the purest and most innocent of motives. Lest upon the wide theatre of the world, with a family of tender offspring looking to her maternal hand for protection and support, was she not bound by the most sacred ties of duty and affection, to embrace every honourable means of advancing their interest, and promoting their happiness? You will answer, Yes. And could this object be more effectually accomplished than by her union with one whom this infatuated woman yet believed to be all that he had represented—the rich—the noble—the grateful friend of her late husband—the object of his affectionate regard and confidence—to whom, in his last hour, he had delegated the sacred charge of protecting and defending her. Her belief that she was immediately to remove to another country, the inducement to the haste with which the marriage was solemnized, is clearly manifested by her bringing her sister's family from New York, to take up their residence at Andalusia. I leave it then to your charitable candour whether this marriage is not to be accounted for on the most innocent and justifiable of motives—whether it is not consistent with that presumption of innocence which the law, in its humanity, requires you to make.

From Albany, on the 5th July, she dictates the first of those letters, which the learned counsel, whose policy it is to stigmatise with depravity and guilt every part of the defendant's conduct, has made the subject of such serious animadversion. I confess, to me, who am totally inexperienced in matters of this sort, they appear exceedingly silly and foolish—nonsense, as she herself calls them, never intended for the eye of criticism—but entirely unworthy of the vast importance that has been attached to them. “Passion guided the pen,” it is said. One thing must have struck you forcibly stamped upon every page of this correspondence. If they breathe passion for Mina, they also breathe a passionate affection for her children, which

the murderer of their father cannot, by any rule of human action, be conceived to have entertained. She speaks of her "dear sister," "her very kind nephew," in the same exaggerated tone of feeling. Remember to whom these letters were addressed—to a young man of a nation whose characteristic is warmth, and whose language is tinctured with oriental hyperbole, to a man, in short, whom she had married, and upon whom she leaned for her support, whose kindness and affection, so essential to her happiness, the cold language of distant esteem might have seemed to her little calculated to elicit.

The defendant returns from New York with her sister, to whom, with a kindness that does honour to her heart, she had offered a residence at Andalusia. On their arrival, they find Mina already playing the lord of his newly acquired dominion, feasting his august friends, the Mexican Minister and his Secretary, dividing the spoils among them, and commencing his depredations on the defendant's property. Her confidence in him is yet unshaken. He goes to Philadelphia with her carriage and horses, and some other articles belonging to her, with the avowed purpose of visiting his friend Casanova, but in reality to seek new victims, and to find a wider theatre for his comprehensive genius. On arriving at Philadelphia, he is informed of the decease of his friend, who seems to have acted throughout these transactions as a sort of convenient stalking horse for his schemes, who has displayed his friendship by bequeathing him \$45,000, and manifested his confidence by entrusting him with the administration of his will. He is therefore under the necessity of proceeding, forthwith, to Baltimore, but what is his dismay, when he finds on arriving that the laws of the country prevent his obtaining possession of the bounty of his friend. Thus disappointed, this Prince of Impostors flies for redress to the Executive of the nation, and pays three visits to the President of the United States, in the hope of obtaining his assistance.

During the period occupied by these brilliant falsehoods, occurred the extraordinary correspondence which has been laid before you, and which my learned friend considers, of course, as another link in the long chain of the prisoner's guilt. To my mind, it is but a fresh development of the powers of deception, and seductive arts of this modern Proteus. It only exhibits additional proofs of the unsuspecting confidence and melancholy infatuation of my client. You have been told that his letters are bombast, and not intended to impose on the defendant. That they did impose upon her, no man in his senses can hesitate for a moment to believe. Her letters prove it beyond the possibility of a doubt. Could any one hear those letters read, without shuddering to think how this wily serpent had coiled and fastened himself around the defendant? There was one string he never failed to touch, for he knew how powerfully it vibrated in a mother's heart. Her children—unceasing love for them—gratitude and affection for her—these are the passions breathed throughout his letters, ridiculous and bombastic as Mr. Reed very justly considers them. There is one, however, and the last of these letters, which claims a more particular attention, from the great importance that has been attached to it throughout this cause—and the manner in which it was pressed upon your consideration by the gentleman who preceded me. It is her letter to Mina of the 31st July—the dark and mysterious letter, which first opened the scent for the ministers of justice. You are told with an air and emphasis of great significance and wisdom, that there is more in that letter than meets the view. I beg you to examine it with a searching, even a suspicious eye—put all its parts together, construe them with reference to the history of these transactions, as developed in the evidence, and then tell me as candid and honourable men, whether this letter be not the veriest bugbear of this prosecution, Fanning always excepted. If passion dictated the others, a keen sense of irremediable injury guided the pen in this. She began to tremble at the situation in which she was placed. She had been to the Consul's, and discovered the falsehood of Mina's statements. She had been at Mr. Watkinson's, and there it was first hinted to her that he was an impostor. She had found upon her mantelpiece the proofs of his infidelity. It flashed across her mind that he intended to desert her—that he had married but to plunder her—and having accomplished his treacherous and unmanly object, had left her to a second widowhood. To fill the cup of bitterness to overflowing, the man for whom she had sacrificed decency and braved public opinion, was then, perhaps, in the embraces of a "female friend," rioting in pleasure and in wealth, while she, destitute and abandoned, saw only misery and death in life's dismal perspective. Under the influence of these feel-

ings, she wrote this letter, now construed as the confession of a stricken conscience.

After dwelling in the agony of deep despair on her own loneliness and destitution—after recapitulating the wrongs she had received, and in a tone of the bitterest irony, wishing him to be happy, she breaks into the reflection, that God would permit neither to be happy on this side the grave. She looks beyond the grave for the only refuge from the misery to which the Fates seemed to have doomed her temporal existence.

Well might she say she never could be happy. She may, as she has done, night after night, in the lonely cell of which she is yet the tenant, "wash her couch with tears." Life presents to her but a barren and a blasted heath. The recollections of how miserably she has been duped, the infamy of this public exposure, the mildew on a once unspotted reputation—these will torment her pillow to the latest hour. Her root is earthed. She clings to life by those little tendrils that twine around a mother's heart, with force divine and irresistible.

Mr. Reed, construing this sentence, detached from the rest of the letter, as an expression of remorse, tells you that remorse can be referred to no other crime than that for which the defendant is indicted. Though I am far from making the application, I cannot withhold my abhorrence of so sanguinary a doctrine. He tells you that the person who commits one crime may commit another—that there must be nothing criminal to enable you to acquit. Gentlemen, is there no fury here? What! will you, like the Legislator of Greece, break down all the boundaries of crime, and wash out all offences with blood? Justice, Reason, Humanity forbid it. Apply the doctrine to yourselves, and think of the fearful account you must one day render if this be the rule by which Omnipotence shall regulate its dread decisions.

But we have not done with mystery. There remains yet another dark and mysterious transaction which my learned friend can only fathom on the supposition of the prisoner's guilt. Mina returns from his brilliant campaign at the south. He comes into the room where the defendant and her sister were sitting. Prompted by a sense of the injuries he had inflicted on her, Mrs. Chapman commands him from her presence, and after stating her dissatisfaction at his conduct, expresses a wish for an immediate separation. Mina requests a private interview with her, and she returns to the room apparently reconciled to the man whom she had just denounced.

Suspicion at once takes the alarm. How, it is said, can this be accounted for, but by that close community of crime which chained her hand and foot to the caprices of his tyrant will? What passed at that interview, guilty or innocent, neither you nor I can undertake to say. Why may you not believe that this master of deception, on whose tongue hang plausibility and deceit, told her a tale which soothed her suspicion, and restored her shaken confidence? Think you that if there had been any thing in that interview that merited suspicion, the defendant would have been thus frank and unreserved in her communication to Mrs. Smith?

The spell that seemed to have enchain'd the judgment of my infatuated client was soon afterwards dissolved. Towards the close of August, Mr. M'Ilvaine, accompanied by Mr. Reeside and Mr. Blaney, a high constable of Philadelphia, visited the defendant with the professed object of obtaining further information on the subject of Mina's impostures. A private interview was requested and obtained, in which Mina's frauds and villanies were the theme of conversation. Mr. M'Ilvaine told her that he had in his possession satisfactory evidence that he was a swindler and an impostor, and applied to her for information on the subject. She replied that she could not believe him to be an impostor, and on being asked whether he had not plundered her property to a considerable extent, promptly answered, No. Both these answers, it is said, were false. She knew him to be an impostor, and she knew that he had injured her property. And in proof of this assertion her letter of the 31st July has been referred to. I took occasion, when I had the honour of addressing you before, to say that the defendant had some claim to a reputation for truth, and that claim I think is not forfeited in the present instance. Mina had returned to Andalusia since the date of that letter, and the smooth tongued villain had, with his usual plausibility effaced the suspicions which that letter exhibits. It is in evidence that she was not acquainted with the real fate of her carriage and horses, till a period some time subsequent. The manner in which he explained the circumstance of the bill at the United States Hotel is also in evidence. But were it otherwise, let me ask you as husbands, and some, if not all of you sustain that relation, does the defendant's con-

duct merit any very serious reprehension? A wife is asked if the person to whom she has pledged the most solemn vow, is an impostor, a robber, and a plunderer. Is there any principle of ethics, any rule of positive law, which requires her to do such monstrous violence to nature—to tear asunder the sacred bond of union—to come forward as the chief witness to sustain a charge of larceny and fraud against her husband? I think not. If there were, it would be most unnatural and not to be desired, for it is that proud and romantic loyalty of feeling which, in all the vicissitudes of life's shifting scene, in disease, in misery, yes, even in disgrace, and the world's worst contumely, rallies round, cherishes and upholds the object of its allegiance, which is the brightest jewel in the character of woman.

But the conversation does not end here; and as the learned witness proceeds to communicate his impression that Chapman had died by poison, and that Mina had administered that poison, a marked effect is produced upon her countenance. He pushes the inquiry home, and asked if nothing had occurred to excite in her mind a similar suspicion. A livid paleness spreads itself over her features; her bosom heaves convulsively. There is a fearful pause. Nature seems about to give way beneath the struggle. She recovers after a desperate effort, and replies—No, she did not think he could do a thing so diabolical. You have been told that this was not the exact emotion she ought to have displayed—that it was fear—the fear of guilty knowledge, not the surprise which the question ought to have elicited. Gentlemen, I am little accustomed to read the changes of the human countenance, nor do I profess to measure with nicety the shades of its expressions. But to my simple and untutored apprehension all this appears perfectly consistent with her innocence, and just what in her situation was naturally to have been expected. Mr. M'Ilvaine told you at the close of his testimony that he was then ignorant of her marriage to Mina. This circumstance is the key to what he considered her unsatisfactory demeanour on that occasion. You are bound to presume the defendant's innocence. Now imagine, if you can, the thoughts that must have crowded on the mind of an innocent woman married to the accused murderer of a once loved husband. When she was told that her deceased husband, instead of passing honourably to the grave, had probably perished by poison, that poison administered by one whom he had taken under his roof and cherished as a son—that she had married the parricide, under circumstances so capable of being misinterpreted, there was in that bosom a complication of emotions—an accumulation of horrors too great for human nature to support. The intelligence came like the lightning from the cloud, the avalanche from the mountain top, sudden and overwhelming. Surprise was there, but surprise soon yielded to dismay. There was a nation of antiquity that had no penal sanctions for the crime of parricide. It was deemed an act which only demons could commit. The feeling that influenced that nation dictated the answer of the defendant. Let me, however, caution you against the fatal danger of relying on the expressions of the human features as an evidence of guilt. They vary with different individuals, with the fancy or the experience of the observer. Suspicion is ever apt to misconstrue and distort them. A thousand circumstances may alter or affect them. Will any one of you undertake to distinguish, as Mr. Clemson did of the fumes of arsenic, the shadow of a shade of an expression of the human countenance? Will any one of you undertake to say where innocence stops and guilt begins? Where is the line and compass for such an examination? Away, then, with such shadowy presumptions where life is the great stake at issue! The utter fallacy of all conclusions based on a foundation so unsubstantial is demonstrated by awful examples which blot the pages of our criminal jurisprudence and speak an impressive warning to you now. I will read to you but one, though a striking illustration of this truth. It is the case of Thomas Harris. [Here Mr. M'Call reads Thomas Harris's case from 1 Phil. Ev., Am. ed. p—.] Others are recorded. It is impossible to read of these human sacrifices without an inward horror. I trust in God, gentlemen, this case will not add another to the melancholy catalogue.

On the 10th September the defendant calls, by the advice of Mr. Campbell, to inform the Recorder of the extent of Mina's injuries and impositions. She has received another evidence of his treachery and deception in the forged draught for a thousand dollars, sent to her from Boston. On coming to the city she has learned the fate of her carriage and horses. Light bursts upon her on every side. The delusion she has so long hugged vanishes before these accumulated proofs. She is now convinced that Mina is an impostor, and that she has been the dupe of his arti-

fice. Mr. M'Ilvaine himself considered a full and unreserved development of Mina's frauds, as the only course that was open for her to pursue. That course she did pursue, and yet that course is now objected to, as an attempt to elude investigation, and put the ministers of justice off the track. Her anxiety to be divorced from Mina is viewed as the last effort of the sinking mariner, who saves himself by whelming his companion in the deep. Is it not cruel thus to pervert actions the most natural and simple? Was it not natural that she should seek to be released from the clutches of a monster that had brought her to the brink of this frightful precipice. It is objected that she sought a divorce from Mina! What! this crafty woman, represented as the very abstract of artifice and cunning, seeks, of her own accord, to throw aside the protection of the marriage contract, and render the only being on earth who had any knowledge of the horrid deed a witness to destroy her? An act of wilful and deliberate suicide. Gentlemen, this little fact must go home with irresistible force to your minds. It speaks volumes for my client's innocence.

I take it upon me to say that the whole conduct of the defendant after her first communication with Mr. M'Ilvaine, so far from being criminal, is in every respect that of an innocent woman who is awaking from a dream of happiness to find herself ruined and undone. It was this agonized state of mind which induced her to unbosom herself without reserve to Mrs. Smith. We have seen in the progress of the mechanic arts, mirrors in which all objects are magnified in a fanciful and distorted manner: My learned friend holds such a glass before the actions of the defendant. Reflected from the pure and unsullied mirror of truth, they present nothing hideous or unnatural. In no part of the case is this better illustrated than in the defendant's visit to Mrs. Hitchborn. It is said that she evinced a guilty alarm. Anxiety she might naturally have exhibited; but alarm! where is the evidence of that? Understanding that Mr. M'Ilvaine, with whom she had already had the two interviews just spoken of, had been at the house of Mrs. Hitchborn, who wished to see her, very naturally supposed it to be in reference to some message left for her by that gentleman. The surprise which she exhibited on being told that Mina was arrested in Boston, on suspicion of having poisoned her husband, and the anxiety with which she inquired if her name was in the public prints, exhibit nothing to excite suspicion. The dread of public exposure, and the nice sensibility to shame, which dictated the question are honourable feelings, which belong not to a wretch so hardened in iniquity as they would now represent the defendant to be.

On the 17th September, the defendant again called on Mr. M'Ilvaine for the purpose of communicating to him the grand scheme of imposture which Providence had mercifully defeated by Mina's arrest at Boston.

On that day her name appeared in a public print, at Philadelphia, with this fatal suspicion attached to it. She was now publicly held up to the execration of mankind as the chief actor in this bloody drama. She looked around her, but not a ray of hope cheered the impending gloom. In the whispers of suspicion she heard the faint murmurs of the coming storm; in the agitation that began to heave the bosom of the community she felt the trembling that precedes the earthquake. The paragraph in the National Gazette was the first bursting of the tempest that came rolling towards her head with destructive fury. Pressed on every side, distracted, with none to counsel or to guide her, she fled, and "flying, is undone." This is the consummation of the proof. Her own act, it is said, has affixed the seal to her own guilt. Pause, I beseech you, gentlemen, before you construe as criminal, an act that is perfectly consistent with her innocence.

It requires no effort of research to collect trite aphorisms and hackneyed common-places about the cowardice of guilt. Experience, that best of guides, teaches us, however, that "consternation turns the *good man* pale;" that if the guilty tremble, the innocent will sometimes tremble too. History, which has been described as philosophy teaching by example, records illustrious proofs. I might unfold to you its instructive page, and point to you bright instances of innocence quailing before the fear of popular oppression—of lion-hearted men, who have fled before unfounded accusation, and have not "stood the test."

What shall we say then of this defendant? A woman—whose sex the milder and the gentler virtues adorn and characterize—to whom the rude exposure of a court room is worse than the worst of deaths—who was conscious that by her hasty marriage she had braved the world, and set at defiance its most sacred decorums, and who foresaw the terrible revulsion of public sentiment which awaited the disclosure of

her conduct. We have seen that the event did not belie the anticipation. We have seen prejudice swell itself into a deluge—spreading wider and wider, till its surges even lashed these walls. I repeat it then, in the peculiar and unparalleled difficulties of this defendant's situation, her flight is perfectly reconcilable with her innocence.

Such, gentlemen, are the leading circumstances which Mr. Reed has told you are sufficient to convict the prisoner at the bar.

That they are extraordinary, I admit—perhaps the annals of justice do not exhibit a parallel; but that they are dark and mysterious, and only to be reconciled with the prisoner's guilt, I utterly deny. Wretched woman! she has to contend not only with facts, but with the shadows of suspicion and clouds of mystery, which the ingenious prosecutors at every step raise around her conduct. Not content with that, their humanity would now tear from her the broad ægis which innocence presents to the attacks of unjust accusation—her good character. Not satisfied with destroying, they would now with a savage barbarity, tear the scalp from their victim. With a spirit somewhat at least allied to fury, they tell you that character is the worst defence—that you are not to regard those years of honourable life, which plead so powerfully in her behalf. Gentlemen, it sometimes happens that character is the only defence, the only refuge left for persecuted innocence. In a case of doubt, it is a panoply itself. And has not the defendant exhibited testimonials of her character that might be envied by any one? The prosecution exhausted its quiver here. Its last and keenest arrow was directed at the past life of the defendant. But I trust I am not mistaken in the belief that it fell impotent and harmless at her feet. For what are the vague insinuations of a police officer, whose trade is suspicion, opposed to the positive and unqualified testimony of the numerous and highly respectable witnesses who have been examined for the defendant, especially of the reverend gentleman of whose flock she was a member? With a manly charity that well suited his profession, he came forward without reserve in the defendant's behalf. Inexorable justice compelled him to say that she was a regular attendant at God's worship—a communicant at the holy table, and sustained in every respect a fair and unblemished reputation. That one who has borne with honour the offices of parent, wife, and friend—whose hospitable charity the stranger and the beggar knew, should without passing down the regular steps and gradual declivities of crime, nerve her arm to the perpetration of a deed at which demons would shudder, is opposed to human experience, the safest groundwork of human judgment. While I ask you to regard the defendant's character as something better than the worst defence, I do not mean to claim for her an exemption from the frailties of human nature. She may have—she no doubt has, her sins to answer for—and which of us has not. Turn the scrutinizing eye of justice upon your own bosoms, and let him among you who can recall the scenes of his past life, without the whisper of an accusing conscience, let him cast the first stone.

“ How would you be,
If He which is the top of judgment,
But judge you as you are. O think on that,
And mercy then will breathe within your lips
Like man new made.”

Evidence enough to convict! Gentlemen, I say it, and I say it boldly, that neither the dignity, nor the honour, nor the safety of this great Commonwealth require a conviction on such evidence as this. My learned friend has eloquently described the children of the defendant as lifting their imploring hands to avert the righteous doom of the law. Gentlemen, your own children lift their imploring hands against a conviction, founded on mysteries and presumptions. To convict in capital case, where but a reasonable doubt floats across the mind, is to inflict a deep wound on the laws and constitution of our country. You are now treading upon holy ground—upon the confines of Divine Power. You may not tamper with life. Liberty may be restored. Property may be the subject of compensation. Character may emerge from a temporary eclipse; but when the spirit that animates this frame is once extinguished, who but the mighty Being that created, can rekindle it? Remember that you are now about to establish a precedent. May it be one which your children will never have cause to regret—one by which you yourselves would be judged, if, which God forbid, you should ever have the misfortune

to be involved in what the prosecutors call mystery and suspicion. Long may you live as you have done under the faithful administration of mild and temperate laws. Long may you repose in tranquil security under the broad and protecting shade of the law—undisturbed by the fear of being compelled to defend your lives against forced constructions and unnatural presumptions.

I stand here upon lofty ground. I do not appeal to your sympathies on behalf of the defendant. I do not ask you to acquit her on account of those numerous relatives and friends who are looking with intense anxiety to your verdict—nor for the sake of those innocent children whose presence here has been so unjustly misinterpreted. No. I ask you to acquit her because I feel that her conduct is consistent with her innocence—because I feel that throughout these transactions she has acted under a miserable delusion—been made the victim of a designing impostor, and is now suffering the retribution which folly and imprudence never fail to bring upon their possessor.

Gentlemen, I resign the prisoner into your hands, as far as my duties on this occasion extend, in the confident anticipation that you will render a verdict of acquittal. In doing so, you will obstruct no end of public justice. On the contrary, you will rather advance it, for justice delights not in vengeance nor in sanguinary exhibitions, but wrapped in stern integrity, high above the reach of passion and of prejudice, it never wings its lightnings, till guilt is too obvious for hesitation.

Mr. Brown, on the part of the defendant, summed up the defence as follows:

WITH REFERENCE TO THE COURT:—

Labouring as I do, and as you gentlemen of the jury must perceive, under a severe, painful, and distressing indisposition, although permitted to commence my remarks, it is far from being certain, that I shall be enabled satisfactorily to conclude them. As respects the advocate, this is a matter of indifference, compared with the all-absorbing interest of the defendant. However, if fate should decree this speech to be my last, I do not know that my professional or earthly career, can be more happily or more honourably terminated, than in the just defence of an oppressed fellow creature—a woman—hapless, helpless, friendless, and forlorn.

This case is one of no ordinary importance, I may venture to say, even in *your* consideration, and to *me*, it is a subject of awful and overwhelming interest and responsibility. Your position however, irksome as it may be, is far less painful than mine, since it is within *your* power to do, what I can only solicit; since you are able to avoid, what I only can deprecate.

I appear before you, gentlemen of the jury, a stranger in behalf of a stranger; but I rejoice in the reflection that justice knows no distinction, either local or temporal or personal; but is the same at all times, in all places, and to all persons. The only distinction that she regards, is the distinction between virtue and vice—between innocence and crime; and it is upon justice, as thus understood, that we confidently rely.

If indeed it were necessary that your sympathies should be appealed to, what subject more fruitful than that which is here exhibited; what more sorry or more solemn perspective, than that by which we are now surrounded and appalled? An individual who has run more than half the race allotted to mankind, stands here accused of the highest offence known to the laws of the land; that individual a *female*, with whose character we are ever accustomed to associate all that is lovely in tenderness, affection, and fidelity. That female a *wife*!—charged with the deliberate murder of the husband of her affections—the partner of her bosom. That wife a *mother*!—stigmatized and denounced as the fell destroyer of the father of her infant children.

There can, I say, be nothing in reality or fancy, to add poignancy to the accumulated and unparalleled afflictions of such an occasion. Did I say nothing? Alas, gentlemen of the jury, there is still one step further ere the soul is “supp'd full of horrors,”—the conviction of the defendant. Let us pause and maturely meditate ere that awful step shall be taken—ere we deprive a fellow creature of that life which we cannot give, and which when once taken, we never, never can restore. Such a conviction completes—consummates—all that can be conceived of anguish on this side of the grave; and therefore should it be founded upon the most indubitable proof. If the evidence be questionable or equivocal, if the probation bear a

hinge or loop to hang a doubt on, the obligations—the sacred obligations of the law, throw a vast and inevitable preponderancy in the scale of the defence. I say an inevitable preponderancy; and in saying this, let us not lose sight of another legitimate subject of preliminary remark and reproach, which has obtruded itself upon this cause; namely, the storm, the tempest, the whirlwind of prejudice, by which the unfortunate though guiltless defendant, has been assailed and surrounded, from the moment of these charges having been preferred. No ear has been protected from the accursed hebenon—the leperous distilment of pernicious rumour; of busy and active fabrication—presenting every variety of aspect, and uniting only in the obvious tendency, to injure and destroy an unhappy woman, whom it is our imperious duty to believe to be innocent till her guilt shall be established. That storm of prejudice still rages, and still let it rage. Thank Heaven, there is yet *one* refuge left for the innocent and oppressed; there is one arm at least that is powerful to save. That refuge, is the sacred temple of justice; that arm, the omnipotent arm of the law; directed as we are bound to believe, even in its worldly influence, by a sovereign and overruling power. There is a special providence, we are informed by the Book of books, even in the fall of a sparrow; and it may therefore readily be conceived, that the agonies, the throes, the torments of the human heart, are not altogether unnoticed subjects of regard, to the great Creator of earth and heaven.

Yet still, Gentlemen of the Jury, terrible as it would be that the life of the defendant should be wantonly and unjustly sacrificed, it would nevertheless be comparatively unimportant. Time, the great physician, may heal the wounds inflicted upon the bosom of social or domestic peace; the life and the death of the prisoner may be alike forgotten; but avert if you can the sacrilegious blow, that is aimed at the maternal bosom of the law; the pillow where we must all repose in the hour of peril and distress—claim safety there, and have that claim allowed.

The life of one, or of fifty individuals, may be considered as a mere unit in the vast sum of human existence—a mere pageant upon the extended theatre of human action; but beware of the corruption of the sacred sources of Justice, “the fountains from the which our current runs, or else dries up”—the streams whereof, in the circling eddies of life, we are at one period or another all compelled to drink. Beware of this, if not for the hapless being now upon her trial, beware of it for yourselves,—for the community, for a helpless and an endless posterity. We do not ask you to acquit an offender, but we *do* ask you, and the hardest heart cannot refuse us this, not to substitute the charge for the offence, the rumour for the evidence, the suspicion for the guilt. If you permit the sacred ermine of justice to be once stained or polluted by the blood of the guiltless, not all the spices of Arabia shall ever purify it; not all the rivers of Damascus shall ever wash it clean!

That there has been a death, no man denies; and in this valley of death, no man has a right to wonder; the wonder rather is, that we should live. We appear in the morning, and are cut down; and we wither ere the setting sun. But the laws of the Celestial Empire, have no existence here. The unoffending widow is not with us, dedicated or consigned to the funereal pyre, as the barbarous penalty of survivorship. The loss of one member of the community, is not diminished by the unjust sacrifice of another. Absolutely the evil is doubled, and relatively its consequences are incalculably increased; as the example largely contributes to enfeeble and impair the general tenure and sanctity of life.

But, Gentlemen of the Jury, if the mere death of a husband, were even to subject his relict to such bodily tortures, upon what principle is it, that her character and her hopes, and the hopes and happiness of those who belong to her, are to be eternally blasted and destroyed?

The prosecution, not content with this single victim, embraces all that is dear to her—in one fell swoop. The daughter who has been examined before you, as through the perjury of the child, the life of the mother only can be reached, may be considered on her trial. There is no difference between extirpating the tender ivy, and hewing down the parental oak, to which it clings, for its nurture, its shelter, and support. There is no difference between sacrificing this artless and interesting girl,—tearing the tender flower from its native stalk, and destroying a loving and beloved mother, at the very period of life, when of all others, her attention and protection are most required.

Nay—the ravages of the Commonwealth, extend even further than this. To say nothing of the aged parent, of whom she so pathetically speaks in one of her letters,

and whom she so forcibly compares to the patriarch Jacob, on the loss of his son Joseph, whose sorrows were so great that he refused to be comforted; those prattling innocents whom you have here seen in their mother's arms, smiling as it were, at the glittering sword of Justice, suspended over a mother's head, neither plotting nor fearing harm,—even *their* fate depends upon the issue of this cause.

The time shall come, and that ere long, when your verdict, should it affix crime to a mother's name, will enter deeply into their soul; the worm that never dies shall prey upon their hearts through life; and the curse that never spares, shall stigmatize their memory when dead. And long—long after their bodies have quietly mingled with their sister clods of the valley, long after the eternal doors of the narrow house shall have closed upon them, their reputations, dearer far than life, shall be blurred and blasted, by the odious, and recorded imputations of this day.

But say the learned counsel, these children are merely introduced for effect. We can only say, that they were not introduced by us. We require no such aid against the prosecution; but as I have not requested their presence, neither have I opposed it. It demands a bolder spirit than mine, to defy the laws of nature, or to stand between the children and the yearning bosom of an afflicted mother, at that awful moment, when you are about to determine, whether or not, they shall be separated—ay, separated *for ever*.

I agree, however, with the learned counsel, that thus horrible as the consequences would be, nevertheless, if guilty, those consequences supply no defence. I advert to them only for the purpose of securing a becoming and just estimate of the amount at stake. Though we decide like fate, let us feel like men; and if the defendant were ten times guilty, where, let me ask, is the man, and who would envy his feelings, that could resolutely and recklessly pursue the prosecution of such a case, while every step he takes, he tramples upon the feelings of a bleeding heart.

Having said thus much of the outlines and general character of this case, and of those emotions which belong to it, let us approach more nearly, and at once proceed to examine its more particular and essential features, which array and present themselves under the following inquiries.

I. Was the deceased poisoned?

II. By whom?

There was, as I have said, a death. Not sudden,—the deceased was ill nearly a week. Not in the prime of life,—he was advanced in years, and his sun was fast descending to the dark horizon of the grave. Not unexpected,—expected by himself, calculated upon, as appears by his letter to the Parson, a short time after he was taken ill; and by his conversation with Mr. Vandegrift, a few days preceding his demise.

But before we enter regularly upon the discussion of those inquiries, there are some other features of the argument or address of my ingenious adversary, to which I must invite your attention. This cause has been managed for the prosecution with great ability, and I am compelled to add, with unexampled zeal. The gentleman closed his remarks last evening, with a beautiful passage from Anastasius, exhibiting the reliance of guilty parents upon the pure petitions of their infant children at the throne of Divine Grace. The passage was well chosen, and most admirably applied. But I marvel much, that the same gentleman who so strenuously deprecated the influence of sympathy in behalf of the friendless prisoner, should have condescended so frequently to invoke it, in support of himself and his colleague.

You are told in the very outset of his discourse, that unless this prosecution should prove successful, the fault will be attributed, not to any deficiency of proof, but to a deficiency of ability on the part of the officers of the Commonwealth; that they forsooth will suffer in public estimation. They have given you the ocular proof of their unquestionable capacity. But suppose it were otherwise; has it come to this, that for the purpose of gratifying vaulting ambition, for the purpose of inflating professional pride, for the purpose of avoiding individual mortification, the majestic bark of justice shall be driven from her moorings, and the liberty and lives of the community set adrift? If they have harnessed themselves to the car of the Commonwealth, and its massive weight is beyond their strength, are you to listen to their supplications for help?—are you to apply your shoulders to the wheels? If Phæton will assume the reins, and direct the chariot of Phœbus, he deserves, and should endure, the fatal consequences of his temerity.

The counsel have not, it is true, invoked the aid of little children in their distress;

it would have been wiser had they followed the Egyptian example; yet they have prayed most lustily for themselves, but Justice is inexorable, and deaf to their intreaties;—intreaties, which, permit me to say, to my untutored ear, resemble less the mild and mellowed plainings of a contrite spirit, than the wild shrieks of a famished vulture, just pouncing upon her prey. I ask no sympathies for myself; I had almost said I disdain them; but I openly protest against their enlistment for the prosecution. Where is the man so reckless and so lost to honour, who in this momentous struggle against all odds, for the life of a fellow creature, will cast the sword of Brennus into the scale of the Commonwealth? If there be such a man, let him deny his *name*, as he must long since have abjured his *nature*.

Notwithstanding this appeal, the counsel assure us—assure our client of their kindness, their tenderness, and commiseration. *Timco Danaos—et dona ferentes*—may it please your Honours: this is the kindness of Judas, kissing to betray,—the tenderness of the tiger, covering to devour—the commiseration of the crocodile, mingling his tears with the life-blood of his expiring victim. We will endeavour to protect ourselves from their open hostility, but we earnestly implore you, to guard and defend us, against the *tender mercies* of such a prosecution.

As a specimen of their deep condolence with the prisoner, they at first attempt by the assistance of police officers, to deprive her of the safeguard of character; and miserably failing in this, you are next told by them, that character is the very worst defence that any cause can have. Will this court and jury recognise that doctrine? Can they reconcile those inconsistent attempts? Character is always a *good*, and sometimes an *only* defence, in doubtful cases; and surely it is conceding enough to our opponents, to admit that this is a doubtful case. Character is a broad and secure shield, against which the pointless shafts of suspicion break themselves in vain. If the advantages of a spotless reputation, be at all proportioned to the difficulties encountered in its acquisition, it may be confidently relied on. The attainment of character is an uphill work; the ascent is difficult, laborious, and treacherous; but when we reach the glorious summit, after all our toils and perils past, Fame, with her own hand, arms us at all points in celestial panoply, which, like the polished mirror, *reflects without retaining*, the calumny, reproaches, and odium that assail it. Reputation, it is true, may be gradually lost; its safeguards gradually impaired; but whatever may be the particular, and hackneyed exceptions, which human nature supplies, I hold it to be a well established general rule, that it is never suddenly surrendered or abandoned, without some inducement or temptation, either actual or imaginary, commensurate with the importance of the sacrifice.

There is one other subject of comment, before I return to the systematic consideration of this case, under the inquiries proposed; and that is, the inference of crime from the supposed existence of motive: an inference from an inference.

In human tribunals, we generally ascertain the motive from the act, and not the act from the motive; and this improvement in moral philosophy, for which we are indebted to our learned friends, serves to remind me of a story related, not of an Egyptian, but a Turk, which I may be pardoned in recounting. Conforming to the sublime ordinances of the Koran, the Turks, it seems, had forbidden under severe penalties, an indulgence in wine, or any other intoxicating beverage. An officer of the government observing an individual with a jar upon his head, and discovering that it contained the juice of the grape, summoned him forthwith before the Mufti, and there preferred his complaint. The alleged offender acknowledged the wine, but denied the offence; whereupon the accuser rested his charge, as the prosecution here does, upon the probability of guilt, from the strength of the temptation or motive to commit it. Upon which, the prisoner observing in the hand of his adversary a glittering scimitar, immediately turned to the magistrate, and accused the officer of murder; and when called upon to sustain his charge, relied upon the reasoning that had been urged against himself. “That shining blade” said he, “is an instrument of death; I find it drawn and naked in your hand; if the mere ability to commit crime, be an evidence of crime committed, you stand arraigned and condemned upon your own principle.” It is almost unnecessary to add, that the Turk was discharged.

“Man is prone to evil as the sparks fly upwards;” but we should be careful, not too far to confirm this doctrine, by its unthinking application. The object of evidence is the establishment of facts: those facts, when established, are what we denominate proof. But if from mere liability or inducement to evil, we are to draw

satisfactory conclusions of crime, why then to be sure, all mankind are flagitious offenders, and *we the most of all*. You have nothing to do but to read the indictment, to run over a string of truisms, or popular brocards on the subject of human iniquity, and the business of destruction is done. Your courts of justice virtually become slaughter houses, and you yourselves, the ministers of the law, instead of being sacrificers, are converted into butchers.

There is another view taken by the counsel of this case, which, for its novelty, is deserving of attention. He contends that you must either find the prisoner guilty, or pronounce her entirely innocent. If he mean that the charge contained in the indictment cannot be qualified or reduced, so as to admit of a conviction for any inferior offence,—if, in other words, he meant that she *must* be capitally convicted, or not at all, I concur with him. But if he intended to signify, and so seemed to set the current of his thoughts, that you must either absolve her from every act of imprudence and indiscretion, or else convict her of this heinous offence, I deny it totally. Even a general want of innocence would not be in itself, sufficient evidence of the perpetration of a particular crime. If the mysteries of the case, as is said, cannot tally with the idea of innocence, they must cease to be mysteries, and become self-evident facts. If they are *mysteries*, they *may* comport with either innocence or guilt, and in that event, the condition of the defendant is the best.

Aware of their difficulties, you are told that crimes of this description are always committed in such a way as not easily to be discovered. So are most offences; but does it follow therefore, that where they are *not discovered*, we are to guess at a verdict, and thereby entail upon our consciences a heavier crime than that which we unjustly condemn? What can we reason but from what we know? It is possible, it is true, that there may be guilt even where it cannot be ascertained; but it is also possible there may *not be*, and all that it is requisite should be said, is, that the benefit of the possibility is with us, and the necessity of distinct and conclusive proof, with them. If they fail in this, the cause for all worldly purposes is ours; and the punishment of the offender must be left to that omniscient Power, to whose vision all the depths, darknesses, and recesses of the soul are revealed. “Vengeance is mine, saith the Lord, and I will repay.” Let not sublunary tribunals audaciously and impiously presume to invade the sacred sanctions—to usurp the high prerogative of heaven.

To return now, from this discursive flight of the counsel, in which I confess I have been compelled to pursue him, to the more essential and substantial merits of the charge, I will in the first place proceed to show you—instead of adopting the chronological order of events—which probably would have been the most perspicuous arrangement, that there was no poison; and without making it an independent ground of observation, I shall also endeavour to satisfy you, should I even fail in my reliance upon this first broad shield of the defence, that there is no sufficient reason for believing that this defendant participated in the offence.

It was a practice adopted by Sir Matthew Hale, one of the greatest ornaments that ever adorned the criminal jurisprudence of any country, never to allow any man to be convicted of a murder, until it was at least distinctly shown that a homicide of some one had been committed. Our own experience has furnished an ample illustration of the wisdom of this rule. In a sister state, two men were accused of the death of a third, and upon being arraigned, they both pleaded guilty to the charge, willing, no doubt, to terminate the horrors of remorse, of which they had long been the prey. The plea of guilty to such a charge, is an unusual one; the public journals teemed with various accounts of the case; the day appointed for their execution rapidly approached, when lo! the murdered man appeared in their behalf, not like blood-bolter'd Banquo, “with twenty trenched gashes on his head,” but in the possession of full health and vigour, and with far better prospects of protracted life, than those by whom he was alleged to have been slain. The explanation is this: those two men who stood accused, had lived in the same neighbourhood with him; they had encountered him in an adjacent wood, and having had an ancient grudge against him, they proceeded to wreak their vengeance, and left him, as they supposed, lifeless.—This, however, was a mistake, for gathering himself up after they had left him, and unwilling again to confront them, he set out forthwith to some of the southern States, as he had previously contemplated, where he remained, until apprized of the peril to which his alleged murderers were subjected; when he gene-

rously presented himself, at the scene of trial, and afforded the ocular proof of their innocence.

The dead body is not more necessary, than the *corpus delicti*,—I adopt Dr. Togno's doctrine in its greatest latitude, when he says “no poison—no poisoning;” and it will afford me infinite pleasure also to show, that this conclusion of a most estimable man, and intelligent physician, is not only obviously correct in itself, but is in entire consonance with undoubted authority, and with the development of every feature, in the course of this important and protracted investigation.

Montmahou, in his “*Manuel des Poisons*,” page 9, says, “the physician will not pronounce that there has been a poisoning, until he has found the poison, and can designate and name it.” And again, in page 11, “all the medico-jurists agree in thinking, that in order to pronounce with confidence, it is necessary to have found the poison.” And further, in page 13, he observes, after stating the importance of a chemical analysis, “we ought to use the greatest attention in the execution of the various processes employed; it should be severe, complete, and have for its result the reduction of the metal. Indeed we have arrived at the present day by rigorous analysis, to discover the thousandth part of a grain of poisonous substance, mixed in liquids, in solids, or even combined with our own tissues. It would be criminal to neglect the means which chemistry offers us, in order to hold to appearances often deceitful.”

The learned counsel has told you, however, that as to his chemical tests, he does not rely upon them—you may throw them entirely out of the case.—Wonderful condescension! If you throw them out of the case, do you not at once perceive, that the condition of the prosecution is infinitely better, than if they are permitted to remain? We insist upon them—we rely upon them as a practical refutation of three-fourths of the hypotheses and theories, which cling around the trunk of this charge, “like ivy to old oak, to hide its rottenness.” The Doctors all agree that no arsenic was reduced, upon the great and final test being applied. Every body that has written, and all who have spoken upon the subject, admit, that the reduction of the metal is the only infallible proof of its existence; and that it can always be reduced, even where the sixth part of a grain, or one-thirtieth part of the quantity necessary to produce death, remains in the system. Now, as it is admitted on all hands that the chemists were skilful, and that all proper means were resorted to by them for the purpose of discovering the arsenic—as it is admitted on all hands that it might have been discovered if it existed—and as it is also admitted that it was not detected, can any thing be plainer than that it did *not exist*—and that all the reasoning derived from equivocal pathological symptoms, and an imperfect anatomical examination, are totally vague and visionary?—more particularly inasmuch as I shall have occasion to show you, that the appearance of those symptoms, and the results of that examination, are not peculiar to cases of poisons, but belong also to many cases of death from natural causes. To strike the chemical analysis from the evidence, therefore, is no stretch of magnanimity on the part of our ingenious adversaries, but upon the contrary serves only to show, that in the pursuit of blood, they have taken one step too far—one important step, and thereby redeemed us from the operation of all that had previously been attempted.

But, say they, if we cannot gratify your *eyes*, by producing the arsenic in its metallic form, we can at least tickle the *nose* by the alliaceous odour, which one of the experiments emitted. But, gentlemen, you are not to be led by the nose in a case of this character; much less are you to be governed by the noses of *others*. Mr. Clemson, the gentleman who titillated his olfactory so often during the cause, with the pungent and fragrant Natchitoches or Maccouba, and who was the only individual who arrogated to himself a superiority in the sense of smelling, did, it is true, pronounce *boldly* upon the alliaceous odour, as an infallible arsenical test; but he at the same time conceded, and Dr. Mitchell proved, and we all know, that the faculty of smelling is the most fallible and treacherous of all the human senses, dependant for its character upon a variety of natural and artificial causes; confounding different odours, affected by the state of mind or body, the nature of the atmosphere, the condition of the health, and an infinite variety of influences unnecessary to be considered. It is admitted the world over, that the sight, which even itself, as Macbeth says, is often “made the fool of the other senses,” is in point of accuracy and perfection, very superior to the smell. We perhaps may be able therefore, best to ascertain the value of Mr. Clemson's olfactory, by testing it by the

accuracy of his vision. You all remember, when asked by me, whether he could tell the arsenical ring by its appearance, he answered promptly, yes. I like a prompt answer, even in a case of life and death, when it is promptly right. I immediately produced the glass tube furnished by Dr. Mitchell, containing the arsenical ring, which was as immediately declared by the witness to contain mercury. Dr. Mitchell was then called again, and explicitly stated, that it contained *no mercury*; and he had a right to know, as it was his own preparation. Now after this failure of Mr. Clemson's best sense, what would you give for the rest? I oppose this dumb witness, [*exhibiting the tube,*] against the nose of Mr. Clemson, and his eyes to boot. It is small, it is true, but it has a giant's strength. It is mute, unquestionably, yet it speaks with most miraculous organ.

But again: suppose the alliaceous odour had been perceived;—I deny its infallibility—I deny its probability. All writers agree, that however it may be considered sufficient as a mere chemical indication of arsenic, and for mere chemical purposes, it is utterly unworthy of regard as a matter of conscientious reliance in a judicial proceeding. Even Christison,* the god of their idolatry, declares it should be utterly discarded, and Berzelius, Orfila, Montmahou, and a host of other distinguished men, consider it as reproachful in the present state of Chemistry, that it should be quoted as a satisfactory, or even a reasonable test.

In page 357 of Orfila, the most celebrated toxicologist of the age, we find this language. "It often happens that Doctors charged with making reports before a judicial tribunal, affirm the existence of poisoning by arsenious acid, because they have found in the alimentary canal, matter which exhales an alliaceous odour upon being placed upon burning coals. We severely condemn this conduct; in effect, the alliaceous character belongs to other substances, and it is not impossible that there should be developed in the stomach, during digestion, substances which exhale a similar odour when heated. Besides, does it not often happen, that we are mistaken in the character of odours? Mr. Vauquelin and myself, were appointed reporters in a case of poison. The suspected matter was placed on burning coals at four different times, and twice only, we thought we recognised the alliaceous smell, and we became assured soon after, that it did not contain an atom of arsenic." The character of which we treat, ought therefore to be considered as an indication, and not as a proof, of the presence of arsenic.

Berzelius, notoriously the greatest practical chemist in the world, and to whom, by common consent, of all the most experienced and skilful manipulators, either in England or France, the proudest distinction has been accorded, thus expresses himself, in relation to this subject.

"The reduction only, is to be regarded as a certain proof, and renders all other evidence superfluous. When the reduction does not succeed, the result must be always doubtful, even when we think or believe we recognise the arsenical odour, upon heating with a blow-pipe or charcoal, the calcareous precipitate, obtained according to the method of Rose; for an operator, little habituated to such essays, may often imagine he recognises in the odour of animal matters contained in the precipitate, the presence of arsenic, while in truth there is none."

In addition to these great authorities, you have the direct testimony of Drs. Bache and Togno; gentlemen who, it is true, have in all probability, run not more than half their career of professional usefulness, yet who have nevertheless, from the spring of their fame, afforded ample assurance of an abundant harvest of future eminence and distinction. Modest, yet decided; skilful, yet cautious; they draw at once a broad and obvious line between the evidence, which will be sufficient to direct their inquiries after mere medical treatment, or chemical results; and that *proof* upon which they would be disposed to rely in a solemn judicial investigation. If, as medical men, or chemists, certain observations or experiments may have regulated their practice or opinions, in ordinary matters of doubt; they prudently consider them too imperfect and fallacious, to form the basis of absolute and conscientious reliance, upon a subject so awful and vital as this. They require, as the law requires, that the best evidence the nature of the case admits of, should be produced. They require that the symptoms should be unequivocal, or that it should be

* Christison, 184. Med. and Surg. Jour. vol. — page 80. Cooper's Med. Jurisprudence, 424.

† Berzelius, Traite de Chemic, Tonic ii. page 151

reasonably ascertained that no natural cause of death existed—before they feel themselves prepared to peril the life of a fellow creature, and their own salvation, upon the confident assertion of poison. “We would not be willing” say both those gentlemen, “to decide upon the presence of arsenic without reduction, because we would not be satisfied by any evidence except what we considered the best.—The alliaceous odour is not to be depended upon.”

But further; if the alliaceous smell indicate arsenic, it must be of course, because arsenic is there. These fumes, *we are told*, are the fumes of arsenic;—these fumes, *we know*, become condensed, and form the arsenical crust on the upper and cooler part of the glass. If, therefore, they were sufficient to prove its existence, they were sufficient, with proper process, to form the metal in its crystallized shape. I agree that it is possible, that the odour should be perceived, without arsenic being detected; because it is probable that the odour may arise without the presence of arsenic, and from other substances, as has been shown; but I deny that the odour ever arises from arsenic, so powerfully as is here described, without the cause—namely, the arsenic, being satisfactorily ascertained and detected in its metallic form. Hence I infer, that as zinc, onions, garlic, the phosphates, and other substances may produce that smell,—in other words, inasmuch as it is not the peculiar effluence of arsenic, that it was produced from other substances, and *not* from arsenic.

But say they—there are the liquid tests, which although all imperfect, and equivocal, still make against the defendant, with the other proofs. What are these tests? Let me *test* them, for without pretending to be a proficient or expert chemist, I do profess to know enough of the science for this case; and I should be wanting in my duty if I did not. I have gone through all those experiments myself, with my own hand; bestowed months of attention and reading upon them, and I can only regret, that still greater time has not been allowed for my researches.

The first test applied, as an almost universal detector of metals, is the sulphuretted hydrogen. This test, in arsenical cases, exhibits a flocculent appearance, and throws down a light, clear, yellow precipitate. In the present case, the test was very doubtful, as is stated; the yellow produced was a darkish and dirty yellow, and no precipitate was perceived. The other test was by the ammoniacal nitrate of silver,—in other words, nitrate of silver dissolved in liquid ammonia. This test should have produced a still darker yellow precipitate, attended by the same flocculency. It failed to do either: and even if it had done both, it is allowed to be a very insecure test, unless amply sustained by those that follow and precede it.

The third test applied, was the ammoniacal sulphate of copper, which presented an olive green instead of the *Scheele* green, which is about the colour of verdigris. The olive green may be obtained much more perfectly by this test, from ginger, stramonium, rhubarb, chromate of potassa, and onion juice, than it was obtained in the present instance.

I conclude then, this branch of my remarks, by saying again, that the restoration of the metal is the only infallible test—I should rather say proof: it is the *corpus delicti* itself. The tests, as they are called, and as they have been referred to, are mere presumptions; and apart from the result, are not to be relied upon. Wherever there is metal enough unequivocally to abide those tests, the metal may be restored; and chemists have succeeded in reducing less than the 300th part of a grain; and wherever there is not enough thus to abide the test, there is not enough to guess at. The mode of restoring the metal, is perfectly simple, and I will take leave to explain it to you. Having evaporated the liquid containing the suspected matter, to dryness; the dry matter mixed with pulverised charcoal, is placed in a glass tube hermetically sealed at one end. To this end you apply the spirit lamp, until the red heat is produced, when, if there be the slightest portion of arsenic, fumes of the smell of garlic will issue therefrom, and the metal itself, will instead of fusing, evaporate and form again in a condensed shape, on the upper and cooler parts of the tube.

But, says the gentleman, even had the prosecution succeeded in showing that the metal was reduced, the defendant's counsel might still argue the insufficiency of that fact. Reduce what metal? I agree, any metal, mercury, for instance, would not be sufficient, but *metallic arsenic* would be; and no argument, however ingenious, could possibly avail against it: and no argument, in that case, would have been attempted. We unite with him, in saying, that you could not pretend to determine, because you saw something glittering on the inner surface of a glass

tube, that it was arsenic; for even Mr. Clemson, with all his eyes about him, and after having imbibed the benefit of all the schools of France, most egregiously blundered in that very particular; and has thereby afforded us a salutary lesson of prudence, from a lamentable example of indiscretion. But the counsel forgets, if he ever knew, that it is not the mere *appearance* of the metal, upon which skilful chemists and judicious men would be disposed to rely; but that the metal, being first detected, and its general nature defined by the success of antecedent tests, is upon reduction subject to other and subsequent tests, which present its character in a totally unquestionable shape; not dependent on the sight alone, the smell alone, the original tests alone, the reproduction alone, or the final tests; but upon all combined, and with all the clear denotement of its deleterious and peculiar arsenical properties. It is in vain, to tell us, that were all these evidences united, and each perfect in itself, errors might still be contended for, since authority, experience, and reason, concur in the utter impossibility of such errors. I admit, if you please, as the counsel alleges, that no *one* chemical result would be conclusive; and it is for that very reason that we require the evidence of various and combined results—all conducing to the same conclusion. If, as is contended, we should dispute the evidence in its aggregate, so much the stronger was the necessity for sustaining its particular items. Nay, if no one chemical result can form unerring proof, how much less can there be unerring proof where, as in this case, there was *not one* such result.

But we have shown, exclaim the gentlemen, triumphantly, that an individual of that house purchased arsenic in Philadelphia, a few days preceding the indisposition of the deceased, and the prisoner was in town at the time of the purchase. That the purchase of arsenic, in relation to this charge, is a circumstance of guilt, need not be a subject of dispute, provided it be connected with the present defendant. It is not so connected. The allegation that Mrs. Chapman was in town on the day the arsenic was purchased, is no evidence of participation in that purchase. But the fact was otherwise. She was in the city with Mina, it is true, upon two occasions, but neither of those visits was on the day of obtaining the arsenic. Indeed, it was perfectly inconsistent and absurd, to suppose that an individual entirely conversant as she was, with all parts of Philadelphia, and embarked, as she is said to have been, upon a dangerous and deadly voyage—should have landed, from choice, upon this perilous and Ausonian shore—should have selected, for the first scene of iniquity, an establishment in the very centre of notoriety, and within fifty yards of the residence of an old acquaintance of herself and Mr. Chapman. Was there no Romeo's apothecary—no caitiff wretch to vend this poison to her—no remote and obscure “culler of simples,” upon whom she could have more securely relied in the purchase of this deleterious drug? Is she to seek the open and blushing face of day, for the purpose of concealing an object or danger?—to believe it were madness—or fatuity, at least.

Yet, say our opponents, admitting even that Mina purchased the arsenic without the defendant's immediate participation, it was nevertheless in prosecution of a common intent, agreed upon between them. If so, how do you dispose of the argument that the forged letter, written under the instructions of Mina, days after the purchase, and purporting to be from that excellent and accomplished gentleman, Mr. De Cuesta, was communicated to her for the sake of whetting her almost blunted purpose? Where was the necessity for it? if she had been previously so ripe and ready for this fell deed—as to cherish the damning thought of taking her husband's life—as even to be active in procuring the means of death—the fallen one had marked her for his own—the last feeble struggle for redemption had passed—and she was so deeply steeped in guilt as to require no further lures to vice—as to defy all further inducements to virtue. If then this forged letter were intended by Mina to deceive her—it was not, as the gentleman imagines, to confirm her in iniquity, but rather to *win* her to iniquity; and if *thus to win her*, it must have been because she was not already won—and if not already won, she could never have been a participator in thought or act, in obtaining the poison, which was procured several days before the letter in question was exhibited or prepared.

Taking leave of this portion of the case, and glancing with sad but comparative civility at the testimony of Dr. Bache, the learned counsel next springs with the fury and rapacity of the hyœna, upon that of Dr. Togno—impugns its credibility—denies its modesty—defames and defiles its purity; and to say nothing of unmea-

sured language, luxuriously indulges in deliberate, cold-blooded, unqualified, and, allow me to add, unwarranted aspersion, for which the meagre apology is offered, that there is left to him but this alternative, either to abandon his own witnesses, or speak *plainly* of ours.—As to abandonment, so far as relates to the party-coloured crew, drawn by the prosecution from the prisoner's household, they were, in one sense, abandoned, before they became retainers in this cause. In regard to the scientific gentlemen examined by the Commonwealth, they have been treated by us freely and fearlessly, it is true, as became the nature of the occasion, but nevertheless, frankly, and fairly and respectfully, as was due to their talents and their virtues. We spoke of no volunteers—we assailed no motives—we impeached no hearts, though we liberally discussed the various opinions expressed, and the means and opportunities from which they were deduced.

If by "*speaking plainly*," the counsel mean contumeliously, his remarks have been as plain as a sunbeam, and almost as bright; but if, upon the contrary, he would be understood to signify, a just adaptation of thoughts and language, to the immediate subject of discussion, he will excuse my saying, he has been guilty of a vast and unpardonable mistake—a mistake in first substituting himself for Dr. Togno, and afterwards applying to that highly respectable gentleman, those observations and rebukes, which, as counsel, he so richly merited—though so sparingly received. By what principle he has been influenced—by what master spirits he has been prompted or directed, we shall not deign to inquire, but proceed to repel the attack, and, in doing so, the learned gentleman must not complain if we resort to weapons similar to those with which it has been made—"tis fit the artificers of death should die."

I should be a foe to fealty and to friendship, could I dispassionately stand by, and complacently behold the counsel glutting his vengeance upon an unassuming and unoffending individual, who, actuated alone by justice and philanthropy, has imparted the valuable aid of his testimony to the present defence.

And is it not most monstrous and unheard of, that a learned gentleman—himself a volunteer in pursuit of blood—a soldier who has eagerly enlisted in this magnanimous war, without even the temptation or inducement afforded by the *bounty*, should for the purpose of proving his loyalty and submission to the power he serves, not satisfied with wreaking his wrath upon the devoted head of the defendant, venture even to grapple with the integrity of a highly honourable man, for no other reason, than because, forsooth, his evidence presents an impenetrable and insurmountable barrier, between the Commonwealth and her intended victim.

Dr. Togno's testimony, I cite the counsel's very language, is "*obtrusively adverse*," and therefore, the witness, we are told, shall have the melancholy consolation "*of dying on his own sword*." Heaven save the mark! The Doctor could not die upon a more unsullied sword, or in a nobler cause. A sword, allow me to observe, that cannot even be dignified by the illustrious hand of the distinguished advocate, by whom it is proposed to be wielded. But let not the counsel talk of slaying, until he has, at least, first established his lofty claims to valour, upon the ruins of this wretched, persecuted, and oppressed family. Let him first, I say, wage a successful and exterminating war, against helpless women, and unprotected children. "*Discretion is the better part of valour*." If he will play the falcon, he must not only fly a higher pitch, but make his first experiment upon harmless doves, ere either his beak or his talons will prove subjects of alarm to the towering and majestic eagle. Enough of this—I almqst owe Dr. Togno an apology for having breathed a word in his support—he is above all assault—he requires no defence, but cloathed in the protection of a spotless and irreproachable character—stands self-dependent and self-sufficient.

"The gentlemen examined for the prosecution, do not remember to have seen Dr. Togno at Dr. Mitchell's laboratory." Wonderful oversight! and therefore, I suppose Dr. Togno, who swears he was present upon that occasion, partially describes what took place, and particularly mentions the individuals engaged in the experiments—must ascribe all these matters to fancy and not to fact. Can any man doubt his presence—if not, the circumstance of its not being remembered by our other scientific friends, may show their own want of memory, but cannot impair the recollections of his. Ah! but says Mr. Reed, he would give us to disbelieve that the stomach was the seat of any inflammation at all, after a very hasty and unsatisfactory examination. I put him in opposition to Dr. Coates—intelligent and respectable as

he is, who decided that the internal surface of the stomach was highly inflamed, without ever opening it, upon a very slight examination of the peritoneal coat, and I am content to abide by your decision between them.—I put it in opposition to the statement of my friend, Dr. Hopkinson, who was satisfied that the stomach contained the cause of the untimely death of the deceased—without ever having seen its contents, or examined other most important parts of the body. I put it in opposition, even to the highly and deservedly lauded testimony of Dr. Mitchell, who, from a skilful and miraculous combination of a variety of uncertainties and fallacies, rendered every thing so perfectly evident, “that it would glimmer through a blind man’s eye.”—I put it, in short, in opposition to every thing to be derived from this portion of the case, with the exception, let it be always understood, of Mr. Clemson’s refined and delicate sense of smelling, and his unrivalled—his transcendent powers of discrimination, between *arsenic* and *mercury*!

Passing from the chemical, to the anatomical part of the examination, we are by no means relieved from the doubts and difficulties by which the understanding is clouded and embarrassed. Upon visiting the grave yard, what are the circumstances attending upon the exhumation? The body, which was disinterred about three months after its interment, was found, we are told, in a state of perfect and unusual preservation. Unusual—how do we ascertain that? Not a physician who has been examined, has ever seen a body after an interment for three days, much less three months; they have therefore no experience upon the subject in relation to which they speak. This preservation is imputed to the effect of arsenic.—Miraculous!—arsenic enough to preserve this body, and yet not enough to be detected subsequently by all the accomplished and skilful chemists employed! It is true, as they say, that arsenic is considered an antiseptic, and is thus used in the preparation and preservation of birds after death, but the quantity thus required is very considerable, small as the bodies may be, and can easily be detected. It is no answer, therefore, to the argument already addressed to you in relation to the failure of the chemical experiments.

Further—the best opinions of the ablest writers, inculcate the belief, that only that portion of the body which is more immediately affected by the arsenic is liable to be preserved. Yet, in this case, the whole of the human frame was equally preserved. It would be useless to refer to authorities for this principle, as it will hardly be denied.

It is unnecessary, however, to dwell longer upon these theories, when the facts connected with the interment sufficiently explain the phenomenon. The Pastor of the Church has told you, that having found fault with his sexton for digging his graves too shallow, the sexton afterwards fell into the opposite extreme, and dug them of an extraordinary depth. In addition to this, the soil was of a dry, sandy character, covered with a stratum of clay, which protected it from moisture, which protection was increased by the declivity of the surface of the ground. Now Orfila, in his treatise upon exhumation, and even the scientific witnesses who have testified in this cause, show conclusively, that this cause is entirely sufficient to account for that preservation, which, by some, has been attributed to the influence of the poison.

The next ground of reliance on the part of the prosecution, is the anatomical investigation. It seems that the body was opened, and the stomach removed, under the impression that the cause of death, in the language of Dr. Hopkinson, whatever it may have been, was contained therein. The lower intestines were found perfectly empty, and appeared “as if they had been hung up to dry.”

The rectum was not examined—nor the brain—nor the heart and larger vessels—nor the liver. I will not pause to show you how essential it was, that the examination of *all* should have taken place in a case of such vital importance. I will not dilate upon the habits—conformation, and constitution of the deceased, and the probability or possibility of death from natural causes. I am satisfied to take the examination as it was—to try it by itself—for none but itself can be its parallel. The stomach was removed—it was not opened—and yet Dr. Coates, one of the physicians, from its external appearance, ventured to pronounce upon its internal state. He saw through the covering, the peritoneal and muscular coat, and undertakes to tell us, from this superficial view, not only the character of the inflammation of the mucous membrane, or lining of the stomach, but also to distinguish between congestion and inflammation. I aver this to be utterly impossible, and I regret exceed-

ingly, that a highly respectable man, and a meritorious physician, should have been betrayed by the excitement of the occasion, into such unnatural perspicacity. I have not the least question of the entire honesty of the Doctor's intention; I can have none—but he must pardon me when I say, his opportunities of observation were entirely too limited to be depended upon.

While on this subject, what says Orfila? “The existence or non-existence of cadavaraque lesions—the extent and seat of disease, are never sufficient to enable us to pronounce whether there *has* or *has not* been poison; and they can only serve to corroborate the conclusions derived from a chemical analysis of the suspected matter.”*

Nor is the testimony of Dr. Hopkinson a more legitimate source of reliance, skilful and accomplished as he is acknowledged to be, in the science which he professes. He ingenuously concedes the fact, that his anatomical inquiries were very imperfect; that it was the first occasion of this nature in which he had been employed; and that supposing that the stomach contained the deleterious or poisonous substance, he considered it to be useless to proceed any further. I wish it to be understood, once for all, that I find no fault with these gentlemen, but I protest altogether against the attempt to infer poison from what did not appear, when they had it in their power by sufficient care and attention, to have decided the question one way or another; and having omitted to do so, we are entitled to argue that a further examination, would have removed, rather than confirmed, their previous suspicions.

In regard to the herring or fishy smell issuing from the body when opened, it is hardly necessary to say any thing. Without attempting to be witty, it affords at best, but a *scaly* reason for a conviction. Its only recommendation to attention, is, that the Doctor never smelt any thing like it before. I presume he must before have opened stomachs containing arsenic; and if so, not having met with a similar smell confirms the idea that this was not arsenic. But if the fact were otherwise, his never having encountered a similar effluvia, assuredly does not show that this smell was peculiar to arsenic. There is no book that confirms or suggests that idea. He never before opened a body after three months interment, and in like circumstances, and the similarity of facts failing, the reason also fails. Dr. Mitchell, it is true, having introduced arsenic into a dead stomach, after some months detected a similar odour. Yet we know nothing of the state of that stomach, of the nature of the disease which produced death, of its cadavaraque appearances; and therefore it affords us no scope for analogical inquiry. But an answer to all this, is derived from Dr. Coates, who tells us that the smell did not seem to him to resemble that of herring, but rather that of tanner's oil. Now I leave you to decide between the noses of these doctors, while I proceed to consider the other portions of this case.

Inverting the natural course of things and pursuing that adopted by our antagonists, from a desire of grappling with them on their own ground, we come next to the chamber of disease and death; and let us approach it with a gravity that becomes the scene. On the night of the 17th of June the deceased was first attacked. He continued ill until the morning of the twenty-third, at about two o'clock, when he expired. During his illness, he made violent attempts at vomiting, which but partially succeeded. He complained of burning pains in his stomach. Towards the close of his career, he became delirious, and in his last hours his pulse was feeble and fluttering; his mouth was dry, and his skin clammy and collapsed. After his death, a small quantity of what was called bloody serum by Dr. Phillips, was found on the sheets, and supposed to have been involuntarily discharged per anum. Some time after his death, say three or four hours, an unusual rigidity of the body was observed by Mr. Bouthcher, who, upon that occasion, performed the last sad office of an undertaker. These are the dark denotements, which, together with the other circumstances, must supply the evidence of poison. By whom administered, is another question. If there were no poison, there was no poisoning, which goes to the whole charge.

Dr. Mitchell, for whom as a physician, a friend, and a man, I have the highest regard, informs us that the chemical tests were equivocal; that the anatomical examinations were imperfect, and not to be relied upon; that the preservation of the body was fallacious; that the symptoms themselves were not peculiar; but, nevertheless, that from the combination of all, he had arrived at the conclusion “that William

* Orfila, (last edition,) Tome i. page 379.

Chapman died from poison." This is a home-thrust, and we must parry it or die. I deny then, in the outset, that by the combination of all those things, each in itself imperfect, perfect proof can be arrived at. I deny that a chaplet of fallibilities, however artfully strung together, can form an infallibility. On the contrary, the concatenation renders imperfection less perfect, and fallibility more fallible. "The mind," says Lord Bacon, "has this property, that it readily supposes a greater order and conformity in things than it finds. Although many things in nature are singular and extremely dissimilar, yet the mind is still imagining parallel correspondences, and relations betwixt them, which have no actual existence."*

But without being an admirer, much less a disciple of the Bobadil school, let me encounter some of these theories in detail. The symptoms, for instance—the nucleus of the whole hypothesis. They are symptoms that belong to the cholera morbus, to violent indigestion, some of them to dysentery; none of them peculiarly to poison. But, says the learned counsel, as any and all of them may be found in arsenical cases, you have therefore the right to presume, from their existence here, that this was a case of death by arsenic. Not so, my learned friend: if they are also to be found in natural diseases, you are bound to presume, influenced by the benign principles of the law, that they were the effects of natural causes. Show us, says the counsel, triumphantly, any one of these symptoms, which is not to be found in cases of poison. I fearlessly answer, we cannot; for the phases of arsenic are as various as the constitutions and tempers of men. They put on the semblance of every disease, and chameleon-like, change while you describe them. But let them show us, if they can, any symptom not to be found in other cases of disease, and they will have established an important point, in the detection of arsenical poison. Nay more—not relying merely upon their inability to do this, I will satisfy you, that the main and characteristic indications or symptoms of arsenic, even according to Dr. Mitchell himself, are wanting in this case.

Dr. Mitchell has given us some of the grounds, from which he deduces the notion of poison. The involuntary discharge of bloody serum; the absence of delirium; the rigidity of the corpse; and last, but greatest, the diseased rectum. When, wonderful to relate, there is no certainty of any involuntary emission: and there is a difference between Mr. Bouthcher and Mr. Phillips, as to the bloody discharge. And even had it taken place, there are various complaints which would produce it. As to the absence of delirium, not a witness has mentioned it; but Dr. Knight and Dr. Phillips both state, that he *was* delirious from time to time, for twenty-four hours before his death. If, therefore, absence of delirium be an indication of arsenic, the presence of delirium is evidence against it. The rigidity of the limbs is easily accounted for, the body having been permitted to remain several hours in the bleak air of the morning, before any attempts at laying it out were made, even admitting that rigidity. But it is still less to be regarded, when it is understood, that Mr. Bouthcher, so far from being, as the Doctor supposed, an experienced undertaker, was but a neighbouring individual, accidentally performing these rites; who, perhaps, had never seen a dozen dead bodies in his life, and who tells you himself that although he had sometimes done these things, he had ceased to do them for several years before. He perhaps had never performed the service in similar circumstances, and his vague impressions in respect to the stiffness of the limbs, are too flimsy and indefinite to be entitled to much respect.

As I have said, the last and greatest argument for poison, is the diseased rectum. This is establishing a disputed fact, from an inference, when the fact might itself have been ascertained, instead of drawing an inference from facts. Nay, more—and worse than that: an inference of poison is derived from an inference of a diseased rectum. Not a witness has proved it. Not a witness who was present, has mentioned it. No complaint was ever uttered by the deceased about it, though the circumstances attending his illness, as particularly described by Dr. Knight, were obviously such as to induce complaint, had this imaginary cause actually existed. So that you perceive the process, by which these learned Thebans arrive at the conclusion of poison, is by first stating the general symptoms of poison; and secondly, imagining correspondent symptoms in the deceased, some of which never appeared; and the very opposites of others, having been abundantly established. A single re-

mark, and I bid farewell—a long farewell to physic. I have been surprised and astonished at the silly sequel to that story, whose preface promised so much wisdom; and I think I utter your sentiments, when I say, that however skilful our scientific friends may be in *preserving* life,—and I know no men in whom I would more readily confide,—with such evidence as this, they are utterly incapable of *destroying* it. I respect them all—I honour them all; and to Dr. Mitchell particularly, I have confided, and would still confide, the health of those much dearer to me than myself. But experience has taught me this salutary lesson of human nature, that whatever may be the gradations in refinement, whatever may be the immeasurable difference in intellect, whatever may be the advantages of science, still, in the essential constituents of the human character, men are at last but *men*; alike subject to passion, to prejudice, to error; and perhaps more strongly confirmed and sustained in all, by that very refinement of reason, and expansion of thought, for which, in general, they are so justly celebrated and admired.

Pursuing the course marked out by our learned friends, though by no means that which I had proposed myself to adopt, I now pass from the pathological, anatomical, and chemical inquiries, to what is termed by them, the circumstantial proofs in this case. Circumstantial evidence it should rather be called, as the term proof implies a higher claim to regard than belongs to this species of testimony, even in its best estate. I will consider it in the *order*, perhaps I should say *disorder*, in which it has been presented.

As to Mary Ann Palethorp, the little girl of twelve years of age, who served as a modest and ingenuous pioneer, for the introduction of bolder and more reckless spirits, scarcely any thing need be said. She is a child—an artless and an interesting child—and far, far be it from me, to impugn or impeach her in the slightest particular. I believe what she has said to be as sacred as though an angel spoke. But were it otherwise, my flight is winged above the heads of children, whatever may be their imperfections or inconsistencies, and has for its object and its prey, those who are no longer protected from impunity, by the maturity of their crimes.

First, in the first rank of those, stands the redoubtable Ellen Shaw—*dux fæmina facti*—an Amazonian Queen—a modern Penthesilea; sustained on the right by the peerless Fanning, on the left by the blushless Bantom, and leading on a host of other worthies, in this charitable crusade against a woman—a mother—and a benefactor. It has been the melancholy fate of the defendant, to nurse vipers in her bosom; to warm them into life, and to be the victim of their venom. Her very charities are converted into implements of assault. The abandoned profligate, Mina, the great exemplar of this wretched crew, after having been discarded with revilings and reproaches from every other asylum, presents himself at the door of the defendant about the middle of May, in the evening, a beggar and an outcast. He solicits alms—he craves a night's lodging. Under the twofold influence of pity, and that duty which is enjoined by divine authority, her house and her heart are opened to him, and she contemplates with the anxious and melting eye of a mother, the friendless condition of her own children, in beholding that of the *wanderer*. In the language of divine inspiration, as impressively quoted by my colleague, “he was an hungered, and she gave him meat; he was thirsty, and she gave him drink; he was a stranger, and she took him in; naked, and she clothed him; sick, and she ministered unto him.”

But, returning from this episode, to the testimony of Ellen Shaw, we find a blister on the very forehead—an odious blot on the very title page of her evidence. She informs you, that she was in the yard when Mina first arrived; that “the dogs barked at him as he passed by them;” that he knocked at the kitchen door, and she told him that he had better apply at the hall door, which he accordingly did. That Mr. and Mrs. Chapman came out, and that the former observed to him in answer to his inquiries, that there was a tavern a short distance below; that Mina replied he had already been refused assistance at that tavern, and that Mrs. Chapman then took him into the room, and began to talk to him, and that the door being shut, the witness went into the kitchen. Now one-half of this story is the very coinage of her brain, for Mary Palethorp, another witness for the prosecution, distinctly says—without speaking of the testimony of the little Lucretia, who is worth a host of Ellen Shaws—that Mr. and Mrs. Chapman were tranquilly sitting in the parlour; that Mr. Foreman went to the door; that he returned, and told Mr. Chapman there was a stranger at the door; that Mr. Chapman requested Mr. Foreman to show him in;

that he was then introduced into the parlour, and *there* the conversation just referred to, took place.

Thus, you perceive, Ellen Shaw not only states the fact, of Mr. and Mrs. Chapman's presence at the door, which was not true, but relates a conversation as having taken place at the door, which actually took place in the parlour, and with closed doors, while she, Ellen, was in the kitchen. To place the mildest interpretation upon this story, it is either imaginary, or she has totally confounded that which she knew, with that which she derived from other and illegitimate sources. The inconsistency, however, does not rest here. She states to you, that Mina, upon his arrival, had on a dark, or black suit of clothes, and a long coat; while Mary Palethorp says he wore a light roundabout. This, though I admit it is unimportant in some of its relations, still shows how little dependence is to be placed upon the accuracy of the witnesses.

But Ellen proceeds yet further, and says, preserving the same spirit which she manifested in the outset, that Mrs. Chapman, a day or two after his arrival, accompanied Mina to Count Bonaparte's: they went in the carriage in the morning, and returned in the evening. She omits altogether to mention, that Mr. Ash was their companion in the journey, and that it was with the entire approbation of Mr. Chapman. That this was an intentional omission, can hardly be denied, when we remember how remarkably tenacious her memory appears to be, in regard to the minutest circumstance that is calculated to operate in favour of the prosecution.

It was during this ride, says the learned counsel, illicit love lighted up his unholy fires in the bosom of the defendant. How delightfully—or frightfully romantic! The first attempt, evidently, was on the part of the prosecution, to show the acquaintance between the prisoners, anterior to the arrival of Mina at Andalusia; and therefore was it that Mary Palethorp was asked, "who appeared best to understand him when he arrived?"—to which she answered, Mrs. Chapman. But being driven from this position by their own witnesses, the next effort is, as I have shown you, to infer a criminal alliance between them, from the period of visiting Bonaparte's, which was but two days after the reception of Mina, at Mrs. Chapman's hospitable abode. This is a fancy, unrivalled in all the legendary lore of outrageous fiction. The Libertines, the Monk, the Black Forest, the Mysteries of Udolpho, and all the other mysteries that the world ever heard of, saw, or wondered at, never presented to the human mind so shocking a monstrosity as this. A beggar—a cut-purse of the empire; a vagabond, who in personal appearance was not the twentieth part the tithe of her precedent lord; a wretched tatteredmalion, fit only for a scarecrow, wins at first sight the defendant from her loyalty—from her husband, with whom she had lived in harmony for thirteen years—from her children, upon whom she doated—nay, even from *herself!* Where, except in the prolific fancy of the ingenuous counsel, do you derive support for this notion? Even Ellen Shaw tells you, that upon her return she spoke of him as a son—as a brother to her children, and I ask you whether it is possible for illicit love to mingle his lurid fires with the hallowed flame of maternal tenderness and affection.

The next part of Ellen Shaw's testimony, is that which relates to the conversation between her and Mr. Chapman, during the absence of Mrs. Chapman with Mina, at the city of Philadelphia, for two or three days. Now, whether any such conversation took place with her, is exceedingly doubtful, as Fanning says she was not present; but take it as it is. This female Iago tells you, that upon the husband's complaining of his wife's absence, she hinted to him, that it was probable they had gone to Mexico, as she had heard them speak of such intention. Yet she never heard *them*, and *admits* she never heard them, and thereby she convicts herself in the first place, of falsehood; and secondly, she shows, from what cause we need not stop to inquire, that her feelings towards Mrs. Chapman were of the most hostile and malignant character.

Without pausing to notice her various anachronisms—the allegations of her desire—and that of her children, that she should leave the place—her confounding spiritual and temporal songs together—her pious ejaculation on the subject of family prayer—her abominable perversion of the true state of the facts in respect to Mr. Chapman's having been compelled, by his wife, to make the beds—all of which matters have been brushed away from me, by the friendly hand of my colleague—I say, without making these separate subjects of remark, let me merely ask, while thus glancing at them in rapid review, whether there is a man on that jury who would

be satisfied to abide by that test, which worthless, discontented, and discarded servants, might be disposed to apply, to the least questionable, to the most laudable of all his domestic arrangements. The language—the manner—the matter—when tortured in her intellectual or moral crucible, lose all their value—their gold is turned to dross.

Again, in speaking of her visit to Mr. Wright's, a visit made for her own personal gratification, a few days before she left the house at Andalusia, she mentions that Mina, pretending to be sick, threw himself back upon the lap of Mrs. Chapman, who supported him in her arms; and yet she omits to mention altogether, that Mina also rested in her lap, though it was obvious to all, that she was a perfect antidote to the tender passions. Nay—this is not all: upon arriving at Mr. Wright's, she informs you that Mina and Mrs. C. took a walk in the woods, forgetting altogether the fact extracted from her upon the cross examination, that they also invited her to walk, and that the house of Mr. Wright, upon their arrival, was in such a state, as to be unfit to receive them, and that therefore they were compelled to walk, as they had no opportunity of sitting. If you choose to be suspicious, why, to be sure, you may perceive impropriety in this, as you may in any other step in life; but, in itself, it is entirely harmless, and totally consistent with the most immaculate virtue.

The malevolence of this witness towards the prisoner, was clearly to be inferred, from her promptness in answering, whenever her answer was unfavourable to the defendant; and from her mental reservation—her suppression of the truth, in those particulars which were calculated to explain what otherwise might exhibit a semblance of guilt. But we are not left to mere inference of malevolence. You have it in distinct proof—in proof from Ellen Shaw herself, who, if she can establish any thing, it must be her own unworthiness. When injudiciously called a second time by the prosecution, we took the liberty of applying the touch-stone “to see if she were current coin or not.” She was asked whether she had had no difference with Mr. and Mrs. C.; she answers none. But were you not dismissed from their service? “Well,” said she in reply, “didnt I go?—and they got an old drunken wretch from the road in my place, but she did not stay long.” Can you have any doubt, gentlemen, after this, that her malice, thus engendered, has for the last twelvemonth been confined like subterranean fire within her bosom, at last thus to burst forth and spread a ruin around. She presents before you the shocking anomaly of a human volcano, breathing nothing but flames, devastation, and death.

Let us turn from this disgusting picture, to the next witness presented on the part of the prosecution: Mrs. Esther Bache. Her testimony is of but little importance. She relates what took place between Mina and Mr. C., and says that Mr. C. having attempted joking with him, he gave Chapman a very ill look. It is somewhat hard to find fault with this, as he certainly had no other look to give. But says the witness, Mrs. C. apologized, and laughingly said, “Mina does not understand a word Mr. Chapman utters.” This to be sure, was wonderful, and bears its own comment with it. I only ask Mrs. Bache what she would have done, and wherein consisted the supposed impropriety?

But the witness says, that Mina sat on the right hand of Mrs. Chapman at table. Where should he sit?—at the head?—at the foot? If he had taken either of those places, it would have been downright treason! Which side Mrs. Bache sat, we have not learned, but considering she never sat down but twice at the table with Mina, and never was in the house with Mrs. Chapman beyond a day, and that in the capacity of a seamstress, her observations, critical and explanatory, of the domestic regulations of the family, were truly remarkable and surprising. Mrs. Bache has every appearance of a respectable woman, and no doubt is so; but she is one of those ladies with whom Ellen Shaw, and Ann Bantom have been talking, and what, independently of their communications, she would have considered as every-day trifles, when connected with, or engrrafted upon their stock of knowledge, produces to her mind a ripe harvest of forbidden fruit,

“ Whose mortal taste, brought *death* into the world,
And all *our wo.*”

Ann Bantom, who modestly takes the third place in this melancholy procession, but who has strong claims to be first, will now be introduced to your notice. She, I suppose, has been brought forward to give some *colour* to their case. Thus it is, gentlemen of the jury, black spirits and white are conjured and raked up, from the

vile recesses of the kitchen and the garret—and arrayed here before you upon this trial, like Milton's devils—"fierce as ten furies, terrible as hell." The day darkens at their approach, and the radiant smile that beams from the brow of innocence, fades away, beneath their withering and demoniac charm.

Ann Bantom is the pivot upon which the whole case, exclusive of the medical branches of it, must rest. The *second* proposcd general inquiry, relies entirely upon her for its solution, at the same time that her testimony materially affects the *first*. Thus important, I fearlessly plant the standard, of my defence upon their own soil. I am content to encounter them with their own arms, and submit unmurmuringly to the issue of the conflict. A word or two, for the general recommendation of Ann Bantom to our regard. She was employed as an out-door servant; occasionally, though not often, had attended on Mondays to assist in washing, and without, for aught that appears, any o'her connexion with the family. Having generally been there on Mondays, how she at this late period, identifies the precise day upon which the events which she relates took place, I know not, and I care not; but I will consider them as they have been communicated; and for that purpose, I am sure you will accord me a patient and attentive hearing.

Ann Bantom says she was at Andalusia the Monday after Mr. C. was taken sick; and it is not a little remarkable, having no kind of acquaintance with Mr. Chapman, that she should have gone uninvited into his chamber in the morning, to inquire after his health, to find him *better*, and that she should again go up in the afternoon of the same day, to make similar inquiries, and to find him *worse*. I pronounce this remarkable in itself, but it is rendered still more so, by the recollection that it does not appear she had ever spoken to him before, and that on the next day after the Monday referred to, she neglected altogether paying him a visit, though she knew he was worse; and at last was urged up into his chamber by his wife, for the purpose of being convinced how important it was, in the helpless state of the family, that her services should not be withdrawn. This may be all true, but much of it is extraordinary. Those two visits on the morning and afternoon of Monday, bear strange denotements. The prosecution required that some body should see him in the morning, to observe that he was better, and then see him in the afternoon, to find that he was worse; while in the interim the soup is to be given to the patient, and the deduction of poison is complete. All these matters are derived from the witness whose testimony we are now considering. Let us turn particularly to her statement.—[*Notes of her testimony here read.*]

"Mrs. Chapman," says the witness, "boiled the chicken and prepared the soup." That the hand of the wife should minister to the wants of the husband in the hour of disease, is assuredly no subject of legitimate complaint:—yet such is the dilemma of Mrs. Chapman, if she gave her husband nothing, she is branded with unparalleled cruelty, and if on the contrary, she comply with the express directions of the physician, and prepare his food or diet, it is only for the purpose of infusing poison into it. Had she for a moment contemplated so horrible a deed, might not the soup have been as well prepared by any other hand? The introduction of the arsenic, was the work of an instant, and it is alleged to have taken place some time after the soup was made. There was every thing to deter her, if actuated by the imputed purpose, from unnecessarily connecting herself with a transaction, from which such direful results were to spring. It was not usual, we are told, however, for Mrs. C. to attend to culinary concerns. It may not have been, but this renders our reasoning the stronger, even as applied to this condition of facts.

One small circumstance, however, has escaped the memory of our friends, and it almost escaped that of their witness; which is, that on this very Monday, Julian, the cook, had been taken sick, and Ann Bantom being engaged out of doors, nobody remained to attend to the preparation of the soup but Mrs. Chapman. Yet still, perfectly as this portion of the case is explained, if you choose, as the counsel do, to take it for granted she is guilty, even this circumstance makes against her. But, if you are to decide upon the testimony, I will not say it is irreconcilable with guilt, but I do say, it is perfectly reconcilable and consistent with entire innocence.

To resume the course of the evidence:—The soup having been made about dinner time, after putting salt in it, it was taken up by Mrs. Chapman into the parlour, for the purpose of seasoning. I cannot understand this exactly, and perhaps it is not necessary that I should. Ann Bantom follows Mrs. C. into the parlour, where she finds Mina. She does not remember what she went up for, but having fulfilled her

purpose, she returnus again into the kitchen. In the afternoon of the day, the soup, or what remained of it, was brought down by Mrs. C. and placed upon the kitchen table, and the chicken was subsequently taken up, and afterwards brought down almost entire, if not quite, and also placed upon the same table, where they both were permitted to remain, until thrown out untouched, by this faithful and economical servant. After this, the ducks of Mr. Bouthcher, to the number of twenty, died; and the argument was intended to be—nay, was—that the poisoned soup produced their untimely end. Now let me consider this, and if I do not totally demolish the reliance of the prosecution, upon their own testimony, I will never open my lips again in a court of justice, but ever hereafter, shroud my diminished head in obscurity and oblivion. This soup, say they, was poisoned soup: how can you for a moment reconcile with that idea, or rather with the idea of Mrs. C.'s knowledge of the poison, the resistless fact, of the poisoned chalice having been permitted to remain for nearly a half day, upon the table in the kitchen, in the very centre of her children, who were there at play, and subject also to the appetites of her servants? Do you—can you suppose, that she designed the destruction of her entire household, little ones and all?—Nay—do you suppose that she designed directly to contribute to her own inevitable detection? Both sympathy and selfishness alike revolt at the idea. If poison had been infused into the soup without her knowledge, she is free from crime; and if it existed at all, it is only by supposing it to be without her knowledge, that you can account for these extraordinary measures. For all the uses of this argument, I care not whether Lino purchased two ounces of arsenic or two pounds, a day or two preceding Mr. C.'s death. It may make against himself, but not against the present defendant; for, whether the deceased died from natural causes, or from his hand, is alike to our defence, the prisoner being unacquainted with the cause, and that she was a stranger to the cause, if contained in the suspected soup, is perfectly manifest and unquestionable; and if the cause were not contained in the soup, then was the soup made and salted—the chickens died, and the ducks followed—all to no possible purpose, and we have been entertained here for a half a day in the examination of kitchen concerns, to be told in conclusion, that they have nothing to do with the case. Had she borne with her the consciousness of guilt, what was to prevent her disposing of the soup in a thousand ways?—throwing it into the fire, throwing it out of the window, emptying it herself into the sewer, where no human power could have discovered it?—Nothing. Yet say the gentlemen, perceiving the force of this argument, “but a portion of the soup that was taken into the parlour, was poisoned, and afterwards carried up to Mr. Chapman; and that which was brought down into the kitchen, had not been drugged.” This is ingenious; but it has no evidence to stand upon, and is self-destroyed. The only soup thrown out, was the soup brought down. The soup that was thrown out, is that to which the death of the ducks has been attributed; and if that did not contain poison, how was the death of the unfortunate ducks produced? They talk of challenges!—I challenge *them* to reconcile these conflicting hypotheses.

Mr. Hellings, and several other witnesses, state, that the death of large flocks of young ducks, is not unusual. That fish water, lime water, and various other matters, will produce that result; and it deserves to be remembered, that Mr. Chapman having been recently engaged in building, large quantities of lime were scattered over his little domain, and perhaps that circumstance may reasonably account, for the timeless fate of these almost unfledged trespassers.

A word or two more, ere I take leave of the ducks. I am not fond of *quackery*, which must account to you for a very brief obituary notice of these long lamented *Quacks*. On Monday morning, before the soup was made, three of Mr. Bouthcher's chickens rolled on their backs, and died. On Tuesday afternoon, a whole day after the soup had been thrown into the aqueduct, the unsuspecting ducklings followed their example; so that you perceive, the chickens died by *anticipation* and the ducks forsooth by *retrospection*. They were all decently buried no doubt, with becoming ceremonies; yet we cannot but drop a passing tear of pity for their fate, when we are told that their rights of sepulture have but yesterday been barbarously invaded, and their canonized bones have burst their earrments, and been produced as a sort of *memento mori* in this open Court, for the purpose of corrupting the wholesome and heavenly atmosphere of justice. I can wish the prosecution, however, no worse fate, and they deserve no better, in requital of this unhallowed deed, than to be daily haunted at the festive and convivial board, with the awful apparition

of a brace of fat ducks. So shall they ever remember the history of this day's error, and be taught a solemn and salutary lesson of becoming reverence for the departed.

We have thus far contemplated the evidence of Ann Bantom in itself, and found it altogether too weak to sustain itself. What then shall become of it, when opposed to the resistless current from other quarters, that sets against, and overwhelms it. The little Lucretia, with a purity unsurpassed by the great original of that name, and with a beauty and simplicity that won all eyes and hearts, informs you, that the soup in question was brought to her by her sister Mary, while she was attending at the bed side of her sick father, and that she gave it to him; that the chicken was brought up at the same time; that he drank some of the soup, but ate heartily of the chicken; and not having had her dinner, at his request she joined him in both, and afterwards carried the little that remained into the kitchen, and placed it upon the table. What now becomes of the statement of Ann Bantom, that Mrs. C. brought down the chicken and the soup? What now becomes of the notion of the learned counsel, that the portion of the soup that was given to Mr. Chapman, was poisoned, and that that which was returned into the kitchen was not the same? There can be no mistake in the time—it was on Monday, while the father was sick, and Ann Bantom in the kitchen. There can be no mistake in the circumstance—it was the only soup administered. There is no refuge left, therefore, to the prosecution, but to ground their arms, and march off at once, without flourish of trumpet or beat of drum.

I come now, in almost the last place, to an analysis of Fanning. This eastern mountebank—this peddling bookseller—a fellow, vending his salt-and-water physic, and his milk-and-water literature through the land; one of a wandering tribe, as numerous as the locusts of Egypt, and as great a curse. He arrives at Andalusia, a beggar, with an empty head, an empty heart, an empty stomach, and an empty subscription list; and with the same generosity as was displayed in the reception of Lino, she charitably supplies all his wants. Her house is open to him, her table is spread for him. His list of subscribers enlarges daily, even beyond his hopes, under her fostering care, and in kind requital for all this, when by the death of her husband, she was left without a protector or a friend, in a strange land, this viper, who had so long coiled in flow'ry ambush, deliberately attempts stinging her joys to death. He causes it to be rumoured through the neighbourhood, that he is the sacred depository of some dark and darkling mystery. He leaves word with Capt. M'Ilroy, that there were deadly doings in that house, and having left his address, desires to be sent for, if any thing of importance should transpire. If he knew any thing that his conscience forbade him to conceal, why did he not speak out like a man?—why shroud himself in the dunkest mystery? If he knew nothing—and it appears he really did know nothing—why did he thus contribute to give wings to wild conjecture and unjust suspicion, against one who never harmed him? For the latter part of his cunning, I could suggest a cause:—Being about to depart for some remote part of the United States, and always having a crafty eye to business, he dexterously manœuvres to be conveniently recalled, and throw the expenses of his journey upon the broad shoulders of the Commonwealth.

And now we have him here, was there ever a more ridiculous farce than that which he exhibits? He opens his pedlar pack before this court and jury, and while every man stands aghast, with the idea that like Pandora's box, it will pour forth all kinds of evils to afflict the human race, lo, and behold, it presents an empty void! From the moment of this disclosure, the flood of prejudice began to ebb; the thronged avenues to your court, were literally deserted, and the rapacious hounds that pursued the defendant, even here to her last refuge, with Blaney at their head, all lost the scent of blood, and sneakingly, though reluctantly, relinquished their prey.

Little, however, as is derived from Fanning, it may not be time unemployed—as he is the Magnus Apollo of the case—to take a bird's eye sketch of his testimony. He first introduces himself, by referring to that period of time, when Mrs. Chapman, her son William, Mina, and Mr. Ash, visited the city, and remained absent about three days. On the night of the second day, he says Mr. Chapman was much agitated, and displayed a great deal of passion, declaring that he had had no peace since Mina came into his house, and swearing by the Deity that he would shoot him. After all this storm of rage however, according to his account, Mr. Chapman quietly and tranquilly retires to his repose, leaving the witness, as a sort of Hesperian Dragon, to guard his honour during the soothing hours of slumber. What a mass of inconsistencies have we here. A husband, publishing to a comparative stranger, the

story of his wife's dishonour—raving this moment in all the torments of the damned, and the next, silently seeking the repose of his *thorny pillow*—the consolations of his *violated bed*. But the climax of this absurdity, is the appointment of Fanning to stand watch and ward, and like night's sentinel silence, to challenge every sound. This situation, however, was not active enough for the curious and prying disposition of Fanning, and he therefore soon followed the example of his commander, and slept upon his post.

The next day, the plot thickens; the wanderers all return; the death of Mina's sister is communicated; and Mr. Chapman accompanying Mina into the parlour, instead of pronouncing him an impostor, as he had alleged him to be to Fanning—instead of blowing his brains out, as he had awfully threatened the night before—he takes a seat with him on the sofa, embraces him, mingles tear with tear, and as Fanning himself says, in the language of scripture, “mourned with the mourner.” This is not all: Mr. Chapman immediately writes to Messrs. Page and Watkinson, ordering them to prepare a splendid suit of black for his faithful friend Don Lino, and to charge it to him. Nor does he stop here: even a few days before his sickness, he draws an order, in his own proper hand, upon Mr. Fassitt, and requests him to pay the balance of his account to his confidential agent Don Lino. And when you connect with these circumstances, the tender epistle written by the deceased to the parents of this Don Lino, or Don Devil, you must inevitably arrive at one of two conclusions, either that Chapman was a madman, or Fanning a liar.

The pedlar, having after the scenes above referred to absented himself for some days, again returns a day or two before the close of his patron's earthly career—namely, on Monday morning, about nine o'clock. With his characteristic modesty, he makes his way immediately into the sick chamber, where he found the deceased, very ill, and vomiting excessively; this however he afterwards partially explains by saying, he made violent attempts at vomiting, but with little effect. The witness saw Mrs C., who requested him not to communicate the condition of Mr. C.'s health to his brother's family. On the night of the same day he is desired by Mr. Chapman to remain with him—“for,” said Mr. C., “I am very sick: when Don Lino is sick, all attention must be paid to him; but now I am sick, I am deserted.” Before I turn to other portions of the testimony, allow me to bestow a few remarks upon that to which I have thus adverted. Finding the deceased very ill on Monday morning, is in the teeth of Ann Bantom's testimony, who states he was much better: you must decide between them. The request of Mrs. Chapman that he would conceal the state of her husband's health from his brother's family, unexplained, would operate against us. But we have shown you that there was an unhappy fraternal feud—that Mr. C. had not been permitted to see his brother during that brother's illness, and that in consequence thereof he had, on the very day preceding the pedlar's arrival, written to his pastor, and spoken to Mr. Vandegrift, to the effect of excluding his brother's family from all participation in his funeral rites. He knew that his widow would be liable to reproach for this, and therefore it was that he thus publicly exculpated her. As to the complaints made by Chapman to Fanning of the attentions to Don Lino and the desertion of himself, uttered no doubt in the way of bitterness, even if Fanning speak gospel, how little are they to be depended upon. We all know the fretfulness, the whims, the caprice, attendant upon disease; we know that shortly after this period, Mr. C. was in a state of delirium—and it would be cruel in the extreme, to permit his loose and scattering remarks, which owed all their prosperity to the ear of Fanning, to be visited against his absent and injured wife.

It was said by the opening counsel for the prosecution, no doubt anticipating the support of Fanning's evidence, that Mrs. Chapman drove her husband's attendant from the room in his last hours; that she refused to send for a physician; and that she withheld from him the medicine prescribed. How ungenerous and unjust is such an imputation, it will be for you to determine, after having heard the evidence upon which it is built. How did she drive the attendant from him? Her house being a perfect hospital—her cook sick—Mina labouring under his fits, either real or affected—her husband dying—she is even compelled to assail the sympathies of Ann Bantom, by describing her distresses, in order to induce her to remain. Whom did she drive from the room? Not Bishop, for he remained in attendance. If any body, it must have been Fanning; and how did she expel him? She came into the chamber about eleven o'clock, where finding Fanning, she expressed her obligations

to him, and told him she would not trouble him to remain through the night: and this perfectly simple and usual occurrence, is distorted into a glaring circumstance of guilt.

"I requested," says Fanning, "to be allowed to go for a physician, again and again, and was refused by her." What a cowardly concealment of the true state of the facts do we here perceive. Dr. Phillips had been sent for on Saturday, visited Mr. C. on Sunday, was the family physician; and upon the cross-examination of Mr. Fanning, it appears that it was not Mrs. C. alone that declined sending for another physician, but that it was also opposed by Mr. C., on the ground that it might offend Dr. Phillips.

In regard to refusing, or omitting to give the deceased the medicines prescribed, Dr. Knight, who attended the patient four or five times, gives you no reason to believe it. I think he gave him some of the medicines himself. The prescription of Dr. Phillips was rigidly pursued, and wonderful to relate, forms part of the charge against us. Even Fanning admits *salt and water* was promptly administered; and yet after all, as I have said, the argument is, that when any thing is given it contains concealed poison; and if nothing be given, it is an evidence of barbarity.

In conclusion upon these points I say, the whole course of the defendant's deportment during those painful scenes, was attentive, kind, and wife-like. Dr. Knight, it is true, thought she was not as much in the room as she might have been; but Dr. Knight knew but little of the helpless condition in which she was placed, and of the various avocations to which she was reluctantly condemned. Dr. Phillips, on the contrary, whose evidence was a model of manliness and propriety, distinctly informs you that the conduct of Mrs. Chapman was becoming and decorous; that as death approached, as they all required rest, he led her and the children out of the room; that he retired also himself, desiring to be called if any change should take place; that he was called about one o'clock, and that Mrs. C. and the children surrounded the bed of the dying man at the moment of dissolution. After this all proper and becoming measures were adopted for his interment; matters were managed in the usual way on such melancholy occasions; the relatives and friends of the departed were invited;—the curtain fell, and the last scene of this sad drama for ever closed.

The post mortem events, so far as they have not been already examined, remain to be briefly reviewed. Your patience and my strength are nearly exhausted, and I therefore hasten to the termination of our mutual toil.

The marriage with Lino, within a fortnight after her husband's decease, is considered as a damning spot upon the escutcheon of this case. If the doctrine be true, that "none wed the second, but who kill the first," we are indeed driven to despair, for the second marriage is unquestionable. But I deny the doctrine; and although I admit that there was nothing to justify this unholy haste, there was, I allege, much to excuse it. The defendant was left with a large family, with limited and precarious means, and without a single friend upon whom to rely in the hour of adversity and distress. Up to this period of time, at least, she had every reason to believe in the representations of the destroyer. His story was sustained by the information derived from the steward of Count Survilliers; it was further corroborated by his reception at the abode and at the table of the Mexican Consul; by the grateful expressions of Miss Romana Cuesta in behalf of a distinguished though unhappy Mexican; by the munificence of the stranger as exhibited by his will, the promise to allow six thousand dollars for his instruction in the English language, the allegation of his immense wealth, and that of his family. But above all, was it confirmed by the confidence manifestly reposed in him by her husband, as is clearly established by irrefragable documents, notwithstanding all that has been said or surmised by some of the witnesses in this case. Connecting with all these circumstances the declaration made to her by Mina, that it was the dying request of his friend that he would prove a protector to his widow, and a father to his orphans; his further declaration of his intention almost forthwith to return to Mexico; of the impossibility of their travelling except as husband and wife; of the customs of his own country in regard to disparity of age; of the importance of being so united, that his father, a proud Spaniard, should not be able to dissolve the bonds, or deny to her the advantages of survivorship, in case of his death; of the gratitude which he felt towards one who had sheltered him in poverty and nursed him in disease; of his intention to bestow the place at Andalusia upon those relatives who were most dear to

her;—take, I say, all these combined influences into consideration, and then decide, if you can, that she was not infinitely more sinned against than sinning.

It is perfectly true, that hearing, as you have done, all these falsehoods exposed, it may excite some surprise that they were not earlier detected. But we are to determine upon her conduct with reference to what was actually represented and believed, and not with regard to what subsequently took place. It is the privilege of but one Eye, as has been said, to dive into futurity, and to lay open the dark recesses of the heart: she was human, and therefore fallible; but there is a vast difference, in the contemplation of this court, and of a higher court, between human error and human crime.

The marriage ceremony having been performed at New York, on the fifth day of July, 1831, Mina returned to Andalusia, and the defendant, in pursuance of the previous arrangement, proceeded to Syracuse on a visit to her sister, Mrs. Green, the object of which was to place that sister in the possession of her establishment in this country, while she and her children accompanied her husband "in the projected voyage to Mexico.

Several letters were written by her during her absence, which have been subjects of severe commentary on the part of the prosecution, and which are said to contain nothing but an expression of the wildest and most irregular passions. It is not very easy to say exactly what should be the character of a letter from a wife to a husband; it must depend very much upon circumstances,—upon the age, constitution, temperament, and condition of the parties. I have read those letters, private and confidential as they were, and you will have an opportunity of reading them; and I take leave to say, that they exhibit nothing that is incompatible with the most entire purity of the heart, or with a judicious exercise of the faculties of the head. They were not intended for public exposure, and therefore, to us, who cannot enter precisely into the feelings of the parties, they may appear somewhat unreasonable and extravagant. But test them, if you please, by letters which you have either written or received in a similar relation, and you will at once perceive that they are neither extraordinary nor remarkable. It is the privilege of married life to speak and to write unreservedly; and your own experience will be sufficient to satisfy you, that in this instance that privilege has not been carried by the defendant, to a licentious or culpable extreme.

There is one letter, however, written by the defendant to Mina, while at Washington, which is said to contain at least an equivocal passage, and to afford ground for the belief, in the language of the opposite counsel, "that all was not perfectly right." In passing to the consideration of that clause, we must be allowed to premise, that it is not sufficient, that all was not perfectly right; it is incumbent upon the prosecution to show to your satisfaction that all was perfectly *wrong*. I agree that all was not perfectly right. It was not right that she should marry within a little month after her husband's decease. It was not right that Mina should sell her jewels, her plate, her horses, and her carriage, or that he should give away the trunk and books of her deceased husband. It was not right that he should take two ladies to the United States Hotel, and that, remaining there with them, he should pay their expenses and his own out of his wife's honest earnings. It was not right that he should squander her means in the journey to Baltimore, under the false profession that it was for the purpose of obtaining a legacy of forty-five thousand dollars, left by his friend Casanova; and it was manifestly wrong that he should practise all sorts of frauds and falsehoods, upon this unsuspecting woman, during his absence. I agree, therefore, as I have said, that all was not right; but I deny that writing under the influences fairly attributable to these manifold outrages, this clause referred to in her letter, is to be considered as an evidence of her having aided in the destruction of the deceased.

It is a well settled principle in criminal jurisprudence, and it cannot be too strongly borne in mind, that where the acts or language of men admit equally of opposite interpretations, that construction shall be adopted which is most favourable to innocence. With the benefit of these impressions, let us turn to the objectionable paragraph. I quote it from memory, and shall willingly submit to correction, if I quote it erroneously. "When I reflect, Mina, I am constrained to acknowledge, I cannot believe, that God will suffer either you or me, ever to be happy on this side of the grave." Was not reflection upon the events just referred to entirely sufficient to induce these expressions, without imagining the perpetration of an of-

fence so heinous as that charged against the prisoner? She had been imprudent; she had been imposed upon; she had been impoverished, together with her children, to whom she was tenderly attached. And if this were not a state of circumstances calculated to produce such a reflection, I am utterly at a loss to conceive what would be. *On this side of the grave*, indicates worldly suffering for worldly indiscretion. If she had been guilty of the imputed crime, her fears would not have fallen short of that punishment which awaits the wicked *beyond the grave*.

Taking these letters all together, and carefully perusing them, nothing can be found inconsistent with the consciousness of innocence. Can you suppose, if this woman had committed so odious and hateful a crime as that imputed, writing as she did, under the sanctity of a seal, and to her partner in iniquity, she never would have allowed a single word to escape her, in which the lynx eye of the prosecution could perceive a semblance of guilty remorse or timidity. If we are determined to suspect crime first, and then to distort and pervert every thing to the support of that suspicion, no man, innocent or otherwise, can escape punishment. I defy the counsel, with all their learning, skill, and accuracy, to write a letter upon any subject, in which I cannot detect, being suspiciously disposed, either an intention to conceal some motive that they entertain, or a disposition to convey some idea that they do not. If their composition be loose, it will be indefinite and equivocal, and admit of a vast variety of constructions. If it be terse and precise, we may plausibly infer, from that very terseness and precision, that they are anxious to guard themselves against the disclosure of some lurking motive.

In reference to the letter written from Erie to Colonel Cuesta, I have but a remark or two to make, carrying with me the benefit of those observations upon the previous correspondence. That letter, be it remembered, was written several months after her departure from Andalusia. It contains this passage: "When I reflect that it is possible, that my dear husband died of poison, and that I myself am suspected of being an accomplice, I am shocked, I am paralyzed." Now, says the opposite counsel, "why should she dream of being suspected?" I answer, for the most obvious reason; because the public journals throughout the United States, to which she undoubtedly had reference, uttered nothing but the most malevolent and unfounded reports of her participation in this crime. She must have closed her eyes, her ears, and her understanding, against every passing wind, if she had not discovered, long ere the date of that letter, the weight of obloquy and suspicion that was heaped upon, and crushed her.

In the same letter she mentions, among various other matters, the inferences that may be drawn from her unfortunate flight, and although that subject is not now presented in the exact order of time, I perhaps cannot do better than briefly consider, and dispose of it.

The reasons which she herself gives for abandoning the protection of her household gods, and temporarily deserting her children, for the purpose of avoiding the violence of the gathering storm, are such as to carry conviction of their truth to every bosom. She was the teacher, and had been for years, of a large and highly respectable seminary; her reputation was her stock in trade; exposure was but another word for death: that she should shrink from it, therefore, was natural—was excusable. That she contemplated but a temporary absence, is plain from her conversation with Mrs. Smith, from her communication to Justice Barker, at the time of drawing up the power of attorney, and from the situation in which she permitted her family to remain.

But two matters remain, ere I surrender this cause to you. The first is the state of things a few days after the funeral; and the second, the interview between Mr. Recorder M'Illvaine and the defendant. Let us take them in their order.

Mrs. Smith, who is a lady in every sense of the word, called at Andalusia, I think the day after the funeral. Mrs. Chapman, apologizing for the want of servants, answered the door herself. She was dressed in black, with a white turban bearing a lilac border: and this little matter struck Mrs. Smith with some surprise; I really don't know why. Grief displays itself very differently in different persons, and in different circumstances. It is not in "customary suits of solemn black" alone, that the heart exhibits its afflictions. Many of the gentlemen whom I have now the honour to address for the first, and perhaps for the last time, are disbelievers in external mourning; and whether they were or were not, they would

hardly convict a lady of murder, from the colour of her turban. Rely upon it, if she had been the wicked thing they would make her, there would have been no deficiency in what may be called dramatic effect; her error would have been in *excess*: like the Ephesian dame, she would have swept the very earth with her widowed weeds, and veiled her face in sorrow. Her dress was not affected, her agonies were not eloquent, but they were not the less poignant, or sincere:

“The grief that cannot speak,
Whispers the o'erfraught heart, and bids it break.”

There was one expression, however, of hers, which breathed volumes—that rather escaped from the labouring soul than was uttered by it—that was addressed to no one, though in the presence of Mrs. Smith—and that sounded like the knell of departed hope; departed, never to return. Casting her eye involuntarily upon the heavens, she exclaimed, in a stifled and subdued voice—“The sun—the sun—looks gloomy.” This simple touch of nature unfolded more, much more, than all the studied forms and ceremonies of wo.

Again: Mrs. Smith, though surprised at first, must have been entirely reconciled to her deportment; as she at that time placed her child under the care of the defendant, and shortly after took up her own residence, and that of her husband, under this very roof. I will not weaken these facts by bestowing upon them a single comment.

On the afternoon of the 29th day of August, the Recorder, accompanied by High Constable Blaney and Mr. Reeside, waited upon Mrs. Chapman at her house. The object, as it is stated, was to discover traces of Mina, with reference to his impositions, malpractices and forgeries, while at Washington. Mrs. Chapman, at the time of their arrival, was at church, with her sister, but shortly returned: and the Recorder being invited into the parlour, immediately communicated the purpose of his visit. He knew nothing at this time of her second marriage, and therefore much of her conduct, which with that knowledge he would have easily understood, appeared to this intelligent gentleman to be extraordinary. He spoke of Mina's character—of his falsehoods, of his frauds—and inquired whether she herself had not been plundered and despoiled by him. She hesitated, and denied it—until her letter, which had been intercepted, was produced, recounting a long catalogue of injuries to which she had been subjected. She even then rather appeared to evade or to extenuate the evils she had suffered. But will you here allow me to inquire what course she should have pursued? Irrevocably wedded to a felon—the officers of justice upon his crime-covered track—was she to join in the general cry—was she to hunt down one, to whom, bad as he was, she had plighted her faith? She gave no other information than was extorted from her—and I openly rejoice that she did not. Fidelity is the brightest jewel that adorns the female character; it is the *last* that woman loses;—and it would have been an eternal reproach to her *sex*—it would have been perdition to *her*, when her vile husband's fate was poised before her, if the whole police of the city, with all their mental racks and tortures, could have extracted from her heaving bosom, a single groan to guess at. Had she then betrayed Mina, infamous and abandoned as he was, it would have supplied to the prosecution the most unanswerable argument of her previous guilt: to *betray* or to *destroy*, is but the same principle, differently developed.

Still not knowing the marriage, the Recorder proceeded, fixing his keen and inquisitorial eye upon her at the same time, to inquire whether she had any reason to believe that Mina had contributed to the death of her husband. She changed colour—her face assumed a livid hue—and she appeared for a moment as if she would have sunk to the earth. She recovers, however, and replies—“No—he was his faithful friend: I cannot think it possible he should do any thing so diabolical!” And yet it is thought this is not a becoming expression of surprise. According to my experience in human nature, it at once expressed surprise, doubt, affection, horror, and all the violent and conflicting emotions which the question was so eminently calculated to excite. But whether it did or not, we do not sit here to decide upon comparative strength of nerve—upon the various results on various individuals, of sudden and unexpected shocks—upon the change of the complexion—or the still more variable forms of passion or expression, depending as often for their character, upon the mind of the *observer*, as upon that of the *observed*. Mr. Phillips, in his valuable essay upon the theory of presumptive proof, speaking in reference to

the celebrated case of Captain Donnellan, in which it was alleged that the defendant displayed more uneasiness than was even natural to one in his situation, makes these appropriate remarks: "It is a delicate thing to decide this question; it is a nice thing to fix the standard of human feelings, and to say what degree of perturbation an individual already branded with guilt or conviction, shall feel, when placed in circumstances which make him to be suspected of a capital crime. Lawyers, and those accustomed to see and advise with persons in that unfortunate predicament, can only tell the terrible apprehension that every one feels at the idea of being brought to a public trial: it is altogether a new view of human nature, and we seldom estimate rightly, feelings which we have never experienced, nor expect to experience in our own persons, nor have witnessed in those of others:

‘To thee no reason!
Who good has only known, and evil has not proved.’”

But I go further than Mr. Phillips, and utterly deny even the *competency* of those who, from their office, are in the habitual community with guilt, to decide from the expression of the face or the features, upon the impulses of the heart. Nay, more than this, their very knowledge of the worst part of mankind, with whom they are so frequently brought into contact, imbues the mind with jaundiced and unfavourable impressions of our nature, and leads them to detect a felon in every face:—if you are bold, it is the hardihood of confirmed guilt—if you are fearful, it is the timidity of crime. I do not mean to say that every judge of a criminal court may become a Jeffries, because, thank heaven, at this day the moral influence of public opinion provides a salutary restraint; but I do mean to say, that whatever may be the theory of our rights, experience abundantly instructs us, that the moment a charge is preferred against an individual, he bears the stamp of Cain upon his brow, and inverting the best principle in criminal jurisprudence, he is almost uniformly considered to be guilty, till his innocence shall be established; and perhaps even afterwards. In these remarks, no one can suppose that I speak in reference to any individual, much less to the highly respectable and amiable Recorder, for whom I entertain the sincerest personal and professional regard. I speak to human nature and common experience, and I do it the more confidently, as I acknowledge my own liability to the influence I thus deprecate.

In further illustration of this doctrine, I need only advert to the case introduced by my learned and eloquent colleague, of the unfortunate Thomas Harris, as reported in Phillips. In that case, though the defendant was utterly innocent, the fact of his changing colour, and appearing confused, was relied upon as a strong, if not conclusive evidence of crime: yet that very confusion was produced, partly from the consciousness that the fact referred to might operate against him, and partly from the shame incident to a disclosure of his avarice. If, therefore, different causes entirely consistent with innocence of the particular charge, may create shame and consternation—and if sufficient independent cause can be shown, as in the present instance, how obviously unjust must it be, that it should be construed into evidence of the imputed crime. It is like the attempt made by the prosecution in respect to the symptoms of the deceased, inferring, as they have done, an existence of poison, from indications of disease, which were altogether consistent with other, and natural causes.

As to the evidence of Blaney, but little need be said. It would rather seem, from what he says, that Mrs. Chapman apprized him of the direction of Mina's journey,—though the Recorder does not mention it,—as Blaney, it seems, soon after this conversation, wrote to Boston, and succeeded in arresting the offender. But I protest, once for all, against the testimony of such men as Blaney, whether for or against us. He is a police officer, speaking from police reports, or rather from the report of Mr. McClean, who was here, and did not condescend to lend his support to the Commonwealth. It is the business of a constable to suspect—and no one can escape him; carrying, as he always does, suspicion in one eye, and a search warrant in the other.

Thus, Gentlemen of the Jury, have I attempted showing, in the first place, that no poison was administered; and in the second place, that at all events, it was not administered by this defendant; either of which is sufficient for the purposes of the present case. If the defendant be innocent, it is not for me to show who may be guilty; that is the business of the prosecution. It can impart no gratification to me

wantonly to travel out of the strict line of my duty, to load, or trample upon a fallen fellow creature.

In conclusion, allow me to observe, that to those who have been engaged in this discussion, and to those who shall be engaged in the determination of the present question, this matter of life or death may be a subject of utter indifference and contempt, inasmuch as it is contemplated in relation to *others*. Clothed in our own imaginary infallibility, what sympathy can be expected from us, by that insulated, hapless being, upon whom our irrevocable decree is about to be pronounced. Sympathy is ever the offspring of a common liability to *evil*, or susceptibility of *good*; and what penalty do you fear, or what privilege do you enjoy, in common with an individual who is presented before you, suspected and accused of the most horrible of crimes. The very circumstance of her being placed at that bar, is calculated to provoke involuntary prejudice, and however we may be taught that both justice and mercy should incline us to the belief of innocence while passing upon the fate of a human being, until guilt be unquestionable—experience, as I have already intimated, frequently establishes a widely different practice.

The law tells us—nature tells us—and humanity abundantly instructs us, that whenever a prisoner stands charged with an offence, and such an offence, instead of substituting the busy rumour, the misty moonshine of malice or prejudice, for the meridian light and fulness of truth, we should patiently await the disclosure of facts which the evidence itself, and the evidence only, can legitimately disclose: thereby placing our verdict upon a substantial foundation, which, hereafter, in the hour of deliberate and calm reflection, may remain firm and unshaken. Pause, now while the opportunity is afforded—now, ere it be too late—now, while reflection comes with healing on its wing. Hereafter years and floods of penitence and remorse, can never obliterate or wash away the consequences of an error, which seals for ever, and irretrievably, the defendant's melancholy doom. Considerations of this kind “all plead, like angels, trumpet tongued, in her behalf, and might almost persuade Justice to break her sword.”

The charge in the indictment is most horrible and atrocious, it is true: a husband's murder! The strength of the testimony, should be proportionate to its enormity. It can never diminish the horror of the charge, that the innocent should suffer. The defendant nevertheless bows submissively to your pleasure: if such be your terrible decree, let the axe fall; consign her to an ignominious grave, and her children to pitiless orphanage. Return then to your own domestic circle—to your own firesides; and, surrounded by your partners and your offspring, recall and relate the lamentable occurrences of this day's trial: tell them that the popular clamour was too loud and too general to be escaped—the popular prejudice too powerful to be resisted; tell them, that under those influences you have consigned a mother to a timeless grave, and her children to endless ruin: and thereby give them to understand, how frail and feeble is the tenure of human happiness—human character—and human life.

I have now done, Gentlemen of the Jury, and the future destinies of the prisoner are committed to *your* charge. For herself, conscious as she is, of her own innocence, and advanced as she is in life, she feels comparatively but little. But you will pardon a sister's—and a daughter's—and, above all, a mother's emotions, while confronting that awful tribunal, upon whose stern sentence must depend not only her own prospects, so far as they remain to her—not only her own existence—but, as I have said, the hopes and very existence of those, to her more precious far than life. To your hands, however, we confidently resign her. You are the ministers of the law—the standard-bearers of justice—and she feels assured you will sustain the balance, with a firm and unwavering hand—let which scale may preponderate.

My duty is at last discharged—feeble and imperfectly, I acknowledge; but as fully as my health and limited abilities will allow. It remains for you to fulfil yours. In doing so, let not, I again beseech you, the client suffer for the faults and deficiencies of her counsel; but generously incline your ear to the pleadings of your hearts, and ever bear in dear and sacred remembrance that “mercy is twice blessed—it blesses them that give, and them that take.”

Saturday Afternoon, 4 o'clock.

Mr. Ross concluded for the prosecution, as follows:

May it please the Court:

Gentlemen of the Jury,—

It becomes my duty, as the prosecuting officer of this County, to conclude this cause on the part of the Commonwealth. The important facts of the case have already been ably and elaborately commented upon by my colleague; and it therefore will be unnecessary for me to consume much more of your time in discharging the sacred trust which has been confided to me. I am well aware of the responsibility under which I act, and of the painful and unpleasant duty, which is imposed upon me. The highest crime known to the laws of the land has been committed—a murder of the deepest and blackest dye has been perpetrated, and I appear before you as the representative of the Commonwealth, to ask in her name, that the perpetrator of this horrid deed be surrendered, in order that she may expiate by her life, the crime which has been committed. Such is the solemn and interesting duty which my official situation has imposed upon me; and in the performance of which, I shall be governed solely by what I believe the public justice of the country may require.

Much has been said by my learned friends on the other side, of the “fury” of the prosecution, and of the spirit and the manner in which it has been conducted. I appeal to your Honours on the bench, and to you, Gentlemen of the Jury, whether the counsel for the prisoner, in their zeal to defend their client, have not made an attack upon the prosecution as unjustifiable as it was ungenerous. In what instance has this “fury” been manifested? In what instance has this prosecution been pressed beyond the strict line of public duty? Nay, have we not, with the most tender and sacred regard for the interests of the prisoner, conceded to her every benefit, and extended to her every indulgence which either her counsel or herself had any right to expect? Look, for a moment, at the mass of testimony which has been adduced in evidence, (a great part of which having no relevancy to the matter in issue,) and ask yourselves whether we have not shown every disposition, consistent with our duty to the Commonwealth, to enable the prisoner to establish her innocence. In the honesty and sincerity of my heart, I can truly say, that I would have rejoiced, not only for the honour of human nature, but for the sake of those innocent and helpless children, if, in the course of this investigation, one ray of light had shed its cheering and brightening influence upon the dark and gloomy picture, which has been presented to our view. Who would not hail with pleasure the return of the prisoner at the bar to the bosom of her family, with a character untainted and untouched by the dark suspicion of a crime so unnatural as treason to her husband—to her children—and to her God? Who indeed, would not rejoice to see, not only innocence established, but life saved? Certainly no one. It is true that I appear as the counsel for the Commonwealth; but I stand before you with the same independence of action which any other individual of this community enjoys—neither incited by feelings of malice, nor influenced by the hope of reward. Never will I raise my voice in support of a prosecution which I believe to be iniquitous or unjust. Never will I ask for a verdict of conviction, when, after mature and solemn deliberation, I could not lay my hand upon my heart, and pronounce a similar verdict of guilty. I would not plant a thorn in my breast, there to fester, and to rankle, and corrode the peace and happiness of my existence, by becoming the advocate of injustice, and the oppressor of the innocent. But I would prove equally faithless to my trust, and recreant to the cause of justice, if I shrank from the painful duty of enforcing the rights of the Commonwealth, when her laws were violated, and the blood of a peaceable and unoffending citizen cried aloud for vengeance. Thus influenced, I can assure the counsel for the prisoner, that I shall neither be deterred by their censure, nor seduced by their eloquence, from a conscientious discharge of the important duty which remains to be fulfilled.

The duty, Gentlemen, which you are called upon to discharge, is equally solemn and equally responsible. It is a duty, however, which your country—which the safety—nay, the very existence of society, require of you; and for the faithful performance of which you must answer to your God and your own consciences. The fate of the prisoner at the bar is placed in your hands. You are not only the arbiters of all she holds dear and sacred in this world, but you are invested to a certain extent, with the power of deciding upon her life or death. Can I therefore urge upon you a stronger motive for dismissing from your deliberations every feeling of

prejudice and of excitement, which this case may have produced in the public mind? God forbid, that your verdict should be in the slightest degree influenced by your prejudices. Remember that the ground upon which you stand is holy; and that the moment you passed the threshold of this sanctuary of justice, an impartial administration of your duty required a sacrifice at its altar, of every passion, or feeling of excitement, which you may have heretofore imbibed. The life, the liberty, the reputation, and the property of each one of us, depend upon jurors being uninfluenced by any considerations, and unbiassed by any impressions, but the unerring voice of truth and of law. I feel confident, Gentlemen, that in making up your verdict in this case, you will be governed entirely by the evidence which has been laid before you, and that you will not be affected "by the storm and whirlwind of prejudice," which the fertile imagination of the prisoner's counsel has created; and about which so much has been said in order to warn you of the danger of its infusing itself into your deliberations. No one can be more anxious than myself to guard you against even the probability of prejudice. The counsel for the accused have indeed evinced an extraordinary degree of sensibility in relation to this matter. The great crowd, which has thronged this building during the progress of the trial, and the eager curiosity which has been manifested to listen to its details, have been seized upon as a theme for comment and for animadversion. My friend Mr. M'Call has told you, that it was "a shame upon human nature, that man could thus feed his soul with his brother's guilt;" and that it was evident from this assemblage of people that the cry of blood had been raised, and that the public mind demanded another victim to be offered up as a periodical sacrifice to public policy. Gentlemen, it is true that this case has produced the most intense and lively interest in every section of the country. It is true, that its enormity, and its unparalleled atrocity, have produced a shock which has vibrated throughout the whole community. It is true that the issue of the trial is looked for, not only here, but every where, with an anxiety which has seldom been equalled. But it is not true, that we are surrounded by a pack of blood-hounds thirsting for the life of the prisoner, and ready to leap upon their prey. The excitement exists, not against the accused, but against the crime. It is to hear and ascertain the truth, but not to sacrifice the innocent and the guiltless. Can, indeed, this excitement, thus created, be a matter of surprise? Is it not honourable to human nature, as well as to the community in which we live, that a deep sensation should be felt, when the life of a fellow-being has been thus basely and treacherously destroyed? Remember, that it is no ordinary case of homicide, which you are now investigating. It is not the case of a murder perpetrated under the influence of intoxication; or of excited and of angry passions; or where one, in order to gratify feelings of avarice or of revenge, plunges a dagger to the heart of his unfortunate victim. But, on the contrary, it is a case where a *wife* has deliberately conspired against the life of her husband, and has thus become the murderer of the father of her children, and the destroyer of him whom she should have comforted and sustained. It is, indeed, a "most foul, strange, and unnatural murder," and one which calls loudly for the avenging hand of retributive justice. The finger of Providence is plainly visible in bringing to light this deed of darkness. Notwithstanding the secrecy with which this crime was committed, and the length of time which elapsed before even a suspicion was awakened, it is now presented to your view, disrobed of its mystery, and in all the naked deformity of guilt, so horrid and so detestable, and without one palliating circumstance to screen the perpetrator from the awful punishment which the law prescribes.

In the examination of the testimony, I shall pursue the same arrangement which has been adopted by the several counsel who have preceded me. It is the most natural division, and enables me to present the facts in a more clear and connected view, than any other mode that I could adopt. My object will therefore be, in the first place, to satisfy you, that the death of William Chapman was occasioned by the administering of poison—and in the next place, to prove to you, that the prisoner at the bar was the ruthless destroyer, by whom this poison was administered.

The first inquiry then is, whether the death of William Chapman was occasioned by poison. If we can satisfactorily make out this branch of the case, the inference will be irresistible, that it was administered by the prisoner at the bar. The evidence of the medical and scientific gentlemen on this subject is so clear and conclusive, that you cannot, I think, entertain even the slightest doubt of the fact.—It is indeed reduced to a moral certainty. Not only the symptoms of the disease, but the

anatomical appearances of the body upon dissection, and the result of the chemical analysis, all clearly and conclusively prove, that his death was occasioned by arsenic, or some other poisonous substance. I do not ask you to found this conclusion upon vague surmises and mere speculative opinions, but upon that kind of evidence which must carry conviction to the mind of every rational man. In the first place, let us consider what were the symptoms attending the sickness of Mr. Chapman, and what are the symptoms of disease produced by arsenic. Dr. Knight, who saw the deceased on Tuesday, tells you, that he then complained of a violent burning pain at the pit of his stomach—of dryness of the mouth, and of great thirst—that he had considerable vomiting and purging—that his extremities were cold as far as his knees—that he had no fever—that his pulse was small and tremulous, and that he was at times delirious. Dr. Phillips saw him first on Sunday, but he was then labouring under such slight indisposition, that his symptoms could not be said to have assumed a distinctive character. He saw him again on Wednesday, and he then appeared to be dying—at that time his extremities were cold and clammy, and the skin was shrunken, and appeared to be collapsed—his pulse was creeping and barely perceptible, and his countenance evinced a good deal of anxiety—there was also an involuntary discharge per anum of sanies or bloody serum. The other witnesses, who saw him during his illness, describe the same symptoms, and speak particularly of the burning pain in his stomach, and of the repeated attempts to vomit; and also of his extreme anxiety and restlessness until a short time before his death, when he became calm and composed.

I will not take up your time, or trespass upon your indulgence, by again reading the books which have been referred to by my colleague, to show, that all the symptoms which these witnesses have described as attending the illness of Mr. Chapman, are enumerated as the symptoms of disease produced by arsenic. You must indeed have been forcibly struck during the progress of this cause, with the striking similarity of these symptoms to those, which not only the different writers on Medical Jurisprudence and on Toxicology, but also the different medical gentlemen who have been examined in this case, enumerate as occurring in cases of arsenic. There is not a single symptom of the whole number which would not have occurred in disease produced by poison. I need only recall your attention to the valuable paper of Dr. Jaeger, in the Edinburgh and American Medical Journal, pages 81 and 87, and to the treatise of Christison, page 218, in which the symptoms attending cases of poisoning are enumerated, and which correspond in every particular with those which the medical witnesses testify existed in the case of Mr. Chapman. If symptoms, under any circumstances, enable us to form an opinion as to the nature of a disease, can there then be a rational doubt entertained of the sickness of Mr. Chapman having been caused by poison? I am even willing to rest this point of the case upon the testimony of Dr. Togno, the gentleman whom the counsel for the prisoner have subpoenaed, and upon whom they seem to place so much reliance. Let us refer to his evidence for a moment, and see what he says are the symptoms of disease in cases of poisoning. He tells you, that the "general symptoms of poisoning are violent vomiting, one, two, or more hours after taking the poison—constriction of the throat—pain and burning in the stomach—great lassitude, disabling the individual almost to move—after the vomitings have continued for some time, there is thirst; and if this state continues, purging follows—the circulation is slow, and participates in the general prostration of the whole system—and at times there is a loss of the intellectual faculties." Now wherein, I ask you, do the symptoms which this gentleman has described, differ from the symptoms of Mr. Chapman? For my own part, I am unable to discover—Nay, if Dr. Togno had been describing Chapman's disease, could he have given (so far at least as he has detailed the symptoms) a more faithful or accurate description of it? But has the gentleman himself been able to point out wherein the difference exists? Was he not requested to name any one symptom of Mr. Chapman's disease, which a person suffering under the effects of poison would not have had; and what was his reply? These are his words—"I do not know that Mr. Chapman had any one symptom which a person dying by arsenic would not have had." This language is clear and explicit, and cannot be misunderstood. But Dr. Togno is not the only medical witness who has been unable to point out a symptom which would not have attended a case of arsenic—Not a single one of the respectable medical gentlemen has mentioned such a symptom—Is not

this an extraordinary circumstance?—and does it not afford a fair and reasonable presumption that Chapman's death was caused by arsenic?

But, says my friend Mr. Brown, Dr. Mitchell has enumerated the absence of delirium as one of the indications of poison; and it is in evidence, that the deceased laboured under the effects of delirium during his illness. The evidence, however, is by no means clear, that the intellectual faculties of Mr. Chapman did not remain sound until within a short time previous to his dissolution—and Dr. Mitchell seems to admit, that delirium may occur in the last stage of the disease. But do not both Orfila and Christison enumerate delirium among the symptoms of disease produced by poison?—and are they not considered by the counsel as high authority—particularly the former? Indeed their own witness, Dr. Togno, expressly says, that in cases of arsenic, there is sometimes a loss of the intellectual faculties. Will the counsel dispute the opinions both of his favourite authors and his favourite witness? This he must certainly do, if he contend that delirium is not a symptom of poisoning. But again, says my learned friend, the soreness of the mouth, which is mentioned by some of the writers referred to, did not exist in this case. Dr. Knight, however, particularly speaks of the parched and dry state of the mouth—but the medical witnesses expressly tell you, that all the symptoms which have been enumerated in the books, can seldom be discovered in the same person. They exist in a greater or less degree, according to the constitution, habits, and age of the patient, and also according to the quantity of poison administered, and the state of the stomach at the time. The question, therefore, is not whether the deceased had *all* the symptoms of poisoning which have been enumerated, but whether he had any one which a person, whose disease was produced by arsenic, would not have had. It has, I think, been already clearly and satisfactorily shown to you, not only by the books, but by all the medical witnesses of whom the question has been asked, that there was not a single symptom, which would not have appeared in a case of poisoning. But in order to extricate themselves from this difficulty, the counsel for the prisoner, with much ingenuity, contend, that although these symptoms might have appeared in a case of poison, still they are also indicative of other diseases. This position I will not dispute; but I do deny that they would all occur in any one disease. It is true, that where there is a combination of diseases in the same individual, these symptoms might all appear; but there certainly is no single disease (but that produced by arsenic) in which they would all exist. Thus, no doubt, many of them would occur in cholera morbus; and from the striking similarity, in many respects, of these two diseases, a strenuous effort has been made to impress you with the belief, that Mr. Chapman really died of cholera morbus. But though I admit that some of the symptoms described, are such as usually appear in cholera, still I contend, that there are others which have never been found in that disease—at least in the form, and under the circumstances, in which they are said to have existed in this case. For instance, Dr. Mitchell observes that he has never known a burning pain, represented like fire, in cholera morbus. In this opinion he is sustained by Dr. Bache, who says, that he "does not recollect having seen a case of cholera in which such burning heat in the stomach, as is described in this case, occurred." Both these witnesses are gentlemen of skill and experience, and enjoy the best opportunities of forming a correct opinion. The one has been subpoenaed on the part of the Commonwealth, and the other on behalf of the prisoner. If then this symptom, as described, does not occur in cholera morbus, in what disease, but that which is the result of poisoning, can it appear? Certainly in no other that I am aware of. It has not, I believe, been contended even by the counsel for the prisoner, that this symptom would appear so strongly marked in any other disease but the cholera. The words which the deceased used, were exceedingly striking and expressive—He compared the sensation to a burning fire; and in fact at all times spoke of his stomach as the seat of his misery and pain. This burning sensation was one of the distinctive symptoms of his disease; and of which he complained in the early stages of his sickness—an uneasiness at the praecordia, and a sense of heat there, are the first symptoms which the operation of arsenic produces, and this effect, it is said by Dr. Beck in his *Medical Jurisprudence*, is often perceived in those who take it medicinally. If indeed you place any confidence in the opinions of Drs. Mitchell and Bache, you must be satisfied that this symptom, in its aggravated form, could not have occurred in cholera morbus.

But this burning pain is not the only symptom which distinguishes this disease

from cholera. The involuntary sanguinolent discharge per anum, could by no possibility, under the peculiar circumstances of this case, have occurred in cholera morbus. The counsel for the accused do not deny, that such an involuntary discharge may be a characteristic symptom of poisoning, but they contend that it may also occur in other diseases; thus for instance in cholera morbus, and in the piles. In malignant cases of cholera, I am willing to admit, that such a discharge might take place. In the case of the deceased, however, I deny that it can be considered as a symptom of cholera. So far as appears from the post mortem examination, (which I will hereafter more particularly consider,) there was not the slightest inflammation of the bowels, or indeed any appearance of disease about them. This discharge, Dr. Mitchell therefore concludes, could only have proceeded from the rectum; and is, in his opinion, a sufficient indication of disease in that organ. For he remarks, that if this sanguinolent discharge had passed through the intestines, it would have left traces of its progress—whereas there was no discolouration, or indeed the least trace of any such matter having passed through them. Is there any thing then to authorize the conclusion, which the counsel for the defendant wish you to draw, that this discharge proceeded from the stomach or intestines, and that consequently it might be indicative of cholera? Certainly there is not. Neither is it fair to presume that it proceeded from the piles. There are, it is true, sanguinolent discharges in that disease; but there has been no evidence that the deceased had ever been affected with that complaint. If such were the fact, why has not some one been brought forward to prove it? His neighbours, his physician, or some member of the family, would unquestionably have known something about it. Mr. Chapman was in the habit of talking about his complaints, and if he had been affected with this disease, it could have been easily proved. It was a matter of much importance to the prisoner, and the zeal of her counsel would not have omitted to prove it, if it had been in their power to do so.

But, Gentlemen, there is still another symptom, which distinguishes this case from cholera, and that is the absence of fever. Dr. Knight testifies that Mr. Chapman had no fever; and cases of poisoning during their first operation, are not accompanied with it.—(Fodera, vol. 4.) Is there any evidence before you, that a case of fatal cholera would take place without fever? Dr. Beck, in his treatise on Medical Jurisprudence, says that in other than arsenical cases, it is an uncommon circumstance, that there should be internal disease of a fatal kind, without more or less fever. Is not the absence then of this symptom alone, sufficient to satisfy you that the sickness of the deceased could not have been the cholera morbus? But if we take in connexion with the burning pain, the sanguinolent discharges and the absence of fever, the fact that at the time of his illness there was no epidemic prevailing in that section of the country, and that cholera is a disease of rare occurrence, and seldom proves fatal in adults, there can be no reason for believing that Mr. Chapman's disease was cholera morbus. Dr. Phillips indeed says, that he has never known, in the course of an extensive practice, but one or two cases of cholera to terminate fatally; and Dr. Hopkinson, whose experience and opportunities of seeing disease must have been very great, tells you that he has never known even a single case of cholera prove fatal. Independently, therefore, of the extraordinary symptoms which attended his disease, the fact that fatal cholera is of such rare occurrence, would alone be almost sufficient to warrant us in the belief, that the death of Mr. Chapman could not have been occasioned by it. But is it not also a somewhat singular circumstance, if Mr. Chapman's death had been occasioned by cholera, that the medical gentlemen who attended him during a part of his illness, are unable to form any opinion as to the character of the disease. Dr. Phillips tells you, that he was not at the time perfectly satisfied as to the cause of his death, and that he has not been since. Dr. Knight says, "that he cannot account for his death, and does not know the cause of it—he never saw a case of disease like it before." If it had been a case of cholera morbus, would these gentlemen have entertained any doubt, as to the nature of the disease? There was not at that time even a suspicion breathed, of his having been poisoned. Why then, I ask, were these physicians unable to account for his death, if it had proceeded from cholera? The cholera is a disease with which they must certainly have been well acquainted, and they would not have hesitated so to pronounce the sickness of Mr. Chapman, if it had not presented some characteristic symptoms, which distinguished it from that complaint. But says my friend, Mr. M'Call, if the sickness were occasioned by poison, and the symptoms

were so indicative of it, the physicians would and could not have hesitated a moment in accounting for its cause. What! Do the counsel really mean to say, that because the attending physicians did not at once declare the patient to have been poisoned, that therefore his death could not have been produced by it? Truly, Gentlemen, this is taxing your credulity at a pretty high rate. Remember that these physicians had never seen a case of poison by arsenic—that the family of Mr. Chapman moved in a respectable sphere of life, and resided in a community distinguished for its virtue and morality, and that not the slightest circumstance had occurred, which could induce the least suspicion of the horrid deed which subsequent events have so fully disclosed and unveiled, of that secrecy and apparent security, in which it was so long shrouded and concealed. Is it then a matter of any surprise, that the physicians did not at the time pronounce the disease of Mr. Chapman to have been caused by poison? It is, however, useless for me to occupy your time with any further remarks upon this subject; you must be perfectly satisfied that, so far as any opinions of the nature of a disease can be formed from the symptoms attending it, the death of William Chapman must have been caused by poisoning. No other rational conclusion can be drawn from them.

The next point in this branch of the case, to which I ask your attention, are the appearances of the body after death, and upon dissection. Do they, Gentlemen, indicate death by poisoning?

The symptoms of the disease do not more conclusively indicate an arsenical case, than do the appearances of the body after death. In every respect, indeed, these appearances present the most striking resemblance to those, which writers upon morbid anatomy describe as existing in cases where death has been produced by poison. It is impossible, that you should not have observed the similarity of appearances, as the opinions of the different writers on this subject were read to you. I care not what authority you consult, of all the numerous writers whose works have been referred to, or upon whose opinion you place the greatest reliance; still there cannot be even a shadow of a doubt as to these appearances corresponding precisely with such as exist in arsenical cases. Have the counsel on the other side with all their zeal, and science, and discrimination of mind, been able to name a single appearance in the body of the deceased, which would not have been presented in a case of death by arsenic? Nay—have they brought forward a single medical witness who has been able to point out such a difference? On the contrary, Gentlemen, does it not appear, as well from the testimony of Dr. Togno, as from all the other medical witnesses, that the appearances which have been described as existing in this case, would occur where death had been produced by arsenic? The former gentleman was particularly requested to point out any one *appearance* in the body of William Chapman, which would distinguish this from an arsenical case, and he candidly acknowledged, that he was unable to do so. But, say the counsel for the prisoner, using the same argument that they did with respect to the symptoms, all the appearances which characterize arsenical cases, occur in other diseases. This may be true—but in the consideration of this subject, you must not forget that their allegation is, that the disease of Mr. Chapman was cholera morbus. The question, therefore, is not whether the yellow fever, as Dr. Bache has remarked, or any other disease, would produce similar appearances—but it is, whether such appearances are usually observed in a case of death occasioned by the cholera. Let us for a moment, Gentlemen, notice some of these appearances. Mr. Bouthier says, that he observed that the finger nails were discoloured some time previous to his death; and that when he was laying him out, he discovered livid spots in different parts of the body, particularly about the face and behind the ear. The scrotum and parts adjacent, were also discoloured. Is not this lividity of the body, in the parts here described, mentioned by the best writers who have treated of this subject, as one of the signs of death by poison? I am willing to consult Orfila, upon whose authority the consul so much rely—and does he not mention these livid spots as one of the indications of death by poison?* But have not both Dr. Mitchell, and Dr. Bache likewise, told you that this lividity is one of the appearances occurring in arsenical cases? Surely you cannot require stronger authority than this, to satisfy your minds as to the character of these spots. But is it, I ask you, a usual appearance in a case of cholera morbus? Nay—is it a usual appearance in any of the ordinary diseases

* Orfila, vol. ii. 514.

which we have in this country? Dr. Knight has given you his opinion, that it is not; you have all, Gentlemen, no doubt frequently seen dead bodies, and is it not a very unusual circumstance indeed, to observe a body livid and spotted, so soon after death, as this is said to have been? But what makes this appearance more singular, and gives it additional importance, is the fact that this lividity and discolouration should exist in those parts of the body, where they generally occur in cases of poisoning.

But Mr. Bouthcher observed another appearance, which is equally unusual and extraordinary in common cases of sickness; and one to which Dr. Mitchell attaches very great importance;—that is, *the preternatural rigidity of the body*, so soon after the dissolution. This is an appearance, recollect, which is particularly mentioned by Dr. Jaeger. But my friends on the other side contend that this also is not an unusual circumstance in death produced by other diseases; and in support of their position, they refer you to the opinion of Dr. Togno, who has said, that it was by no means unusual in other cases. I have no wish to speak harshly of Dr. Togno, although the singular testimony, which he has given, would authorize me in so doing. But I ask you to remember, that Dr. Togno has been a practitioner of medicine but three years; and certainly his opinion will not be received by you in opposition to that of Dr. Mitchell, who enjoys such an enviable reputation both for science and professional skill. There are, however, some matters, in which the opinion of practical men is of more importance, and entitled to greater weight, than the opinion of those, whose knowledge is derived from books, and who are exclusively men of science. Thus, so far as respects the rigidity of the body, the opinion of Mr. Bouthcher is entitled to more consideration, than the opinions of either Dr. Mitchell or Dr. Togno. He has frequently acted as an *undertaker*, and he tells you that he was surprised at the stiffness of this body, and that he had never observed it so soon after death in other cases. This is the opinion of a man who derives his knowledge from actual experience, and who mentioned the fact without any idea of its importance. The same witness tells you, that the ducks, which died about that time, and which we allege were poisoned, were likewise almost immediately stiff.—But, Gentlemen, does this rigidity of the body usually appear in death by cholera? Nay, has any one of the medical witnesses testified that it ever takes place in so short a time after death in that disease, or indeed in any other case but that of poisoning? So far as I have any recollection of the testimony, they have not. It is useless to multiply words, for I do not see how you can resist the conclusion that there was a preternatural rigidity of the body of the deceased, notwithstanding the opinion of Dr. Togno to the contrary. It is, indeed, an important circumstance for your consideration, and one which goes very far, in my opinion, to indicate death by poison.

Then, Gentlemen, how does the case stand, so far as respects the appearance of the body after exhumation, and upon dissection. It is true, that the examination is in some measure defective, and might have been carried much further; though I do not know that it was particularly necessary in this case. It is but justice to Drs. Coates and Hopkinson to say, that the body was disinterred at a late hour in the day, and under circumstances that did not admit of a protracted examination. So far, however, as it did extend, it presented the same morbid appearances, which an arsenical case would have done. The first circumstance that arrested the attention upon opening the coffin, was the remarkable state of preservation of the body.—Dr. Hopkinson says, and the same appearances are observed by Dr. Coates, that he was struck with its firmness and resistance upon making an incision into the cavity of the abdomen, and that the intestines seemed to have become dried, rather than putrefied. The stomach also presented the same firmness of texture. The counsel for the defendant have entered into a long argument to convince you that arsenic does not retard putrefaction. I admit, that there is a difference of opinion in the authorities cited upon the subject; but the better and later opinion evidently seems to be, that it has this tendency. Such is the opinion of Christison. But why, if it have not this effect, as my colleague has remarked, was it ever used for the preservation of animals after death? We all know that it is made use of for this purpose. Of the numerous cases that might be cited to show that it does retard putrefaction, I will only refer you to the case mentioned by Dr. Gordon, in the Transactions of the Medical Society of Erlangen, and referred to by Dr. Beck.—Three members of a family had been poisoned by a servant, and no disinterment of the bodies took

place for a long time after death. One of them had, indeed, been buried two years. Upon their disinterment, however, putrefaction could scarcely be said to have taken place. This case certainly goes very far to prove that arsenic is a preservative of animal matter. But again, Drs. Hopkinson and Coates, and, I believe, Dr. Mitchell, tell you that the part which is diseased, is more liable to putrefaction than other parts of the same body. Why is it then, that the face, which, in this case, was not the diseased part, should have begun to putrefy; and that the stomach, which was the seat of the disease, should have been entirely sound, and presented that firmness of texture which has been spoken of? Why, if the absence of putrefaction be owing to the soil, was any part of this body putrefied? The soil certainly would produce the same effects upon the face, as it would on any other part of the body? Is there not a difficulty in reconciling this with the opinion, that arsenic is not an antiseptic? Drs. Bache, Hopkinson, and Coates, all unite in saying that it preserves the part to which it is locally applied; and Dr. Coates gives you his unqualified opinion, that it is a preservative of animal matter. But, say our opponents, if it only preserve locally, why is it that the intestines exhibited no signs of putrefaction, and that the face should have begun to putrefy? Dr. Coates gives you the reason.—He says, "that the preservative effects upon the abdomen would be stronger than upon the face, because it was nearer the spot to which the arsenic was applied, and the fluids were nearly equal." But, Gentlemen, it is also a circumstance worthy of a passing remark, that the crows of the ducks, after an interment of more than seven months, should have been entirely sound, and have exhibited no signs of putrefaction? These ducks, we say, died of poison. Take, therefore, this fact, in connexion with the remarkable state of preservation in which the body of Mr. Chapman was found, after an interment of three months, and that the stomach, which Dr. Mitchell procured from the Alms-house, and in which he had injected a small quantity of arsenic, did not putrefy, although it remained in his laboratory nearly three months, and I am confident, that you will attach to the absence of putrefaction, that consideration, which it certainly demands. I do not contend that it is conclusive of the fact of poisoning, but merely that it is a circumstance, which, when taken in connexion with all the others, is of great importance in making up your mind as to the appearances of the body upon the post mortem examination.

Another appearance, which this body presented, was the highly inflamed state of the stomach, and the absence of all inflammation in the intestines. If the death had been caused by cholera morbus, would the inflammation have been confined to the stomach and œsophagus? Would there not have been some inflammation in the intestines—some traces of disease to be found in them? Inflammation of the œsophagus is mentioned by Orfila as one of the signs of death by poison. Both Dr. Hopkinson and Dr. Coates observed in their testimony, that the limited extent of the inflammation was one of the peculiarities with which they were struck at the time of the dissection. So confident were they that such morbid appearances as they found in this body would not be found in cholera, that they deemed any further examination unnecessary, believing that the object of it was attained. Certainly no one would pronounce, upon meeting with such morbid appearances in a body, that death had proceeded from the cholera. The counsel for the prisoner, with all their ingenuity, have been unable satisfactorily to reconcile these appearances with a case of cholera; and I am confident, Gentlemen, that you will be equally unable to do so. The other appearances, which this case presented, such, for instance, as the healthy appearance of the gall-bladder—the absence of disease in the liver, and other solid viscera—and the presence of bile of a healthy colour in both the large and small intestines, I will not occupy your time by dwelling upon, but will call your attention to the peculiar odour emitted from the body. Dr. Hopkinson and Dr. Coates both observed this odour immediately upon opening the abdomen, and it was afterwards also perceived by Dr. Mitchell, when the stomach was opened in his laboratory. All these gentlemen speak of it as being very peculiar, and such as they never before observed to have been emitted from a dead body. Dr. Hopkinson says that he has dissected several hundred bodies, and that he never before observed it. This odour, however, derives its peculiar importance from the facts stated by Drs. Mitchell and Bache. Dr. Bache says that he examined the contents of the stomach of Fenner, who died of poisoning by arsenic, and that he was very much struck with a peculiar odour, which was emitted from the stomach, and which he had never before perceived in any other body. He had, at no time previously, ex-

minated the body of a person who had died from poisoning. Dr. Mitchell says, that he procured a stomach from the Alms-house, in which he placed a small quantity of arsenic in solution. It remained in his laboratory for two or three months, and at the expiration of that period, it emitted precisely the same smell, so far as he could recollect, that the stomach of Mr. Chapman had done. Could there be a stronger or a more convincing fact adduced to satisfy you that the deceased was poisoned? Here is no opinion, no hypothesis, but a plain matter of fact, about which there can be no deception. We do not ask you to presume that, because this smell was a very peculiar one, it must have been caused by arsenic; but we lay before you an actual experiment, showing conclusively, that arsenic, placed in a stomach under similar circumstances, will produce precisely the same smell. Such a fact appeals more strongly to the understanding, and must be felt by you with more force and effect, than all the reasonings and opinions to which you may have listened in this case. I will not, however, multiply words on this subject; for there certainly can be no doubt, that so far as any opinion can be formed from the appearances of the body after death, the deceased died by poison.

The third and last point for our inquiry under this branch of the case, is, whether the chemical analysis, which was made of this stomach, give any indication of the presence of arsenic.

In forming your opinion upon this point, I do not wish you to take into consideration the character of the liquid tests. I throw them entirely out of view, although I believe Dr. Mitchell says, that the sulphuretted hydrogen was characteristic enough of arsenic, and that the stomach from the Alms-house abided the tests much in the same way that the stomach of Mr. Chapman had done. Both the counsel, however, strongly contend, that because there was no reduction of the metal itself, you cannot pronounce upon the presence of arsenic. Well now, Gentlemen, can the arsenic be always detected in its metallic state? Need I refer you to the cases that have been read to you by Mr. Reed, proving conclusively that a reduction of the metal cannot always be effected? How many individuals have confessed to poisoning others, in whom no trace of the arsenic could be found? The case mentioned by my colleague is strongly illustrative of this fact; and the case mentioned by Dr. Gordon, and to which I have already adverted for another purpose, is another instance of a failure of chemistry to exhibit any traces of arsenic, although there could be no doubt of its having been administered, for a confession of the crime was afterwards made. Instances are by no means unfrequent, not only in England, but in this country, of persons being executed, without any trace of arsenic having been found. But what say the scientific witnesses, who have been examined in this case? Does not Dr. Hopkinson tell you, that faint traces of arsenic, or indeed no trace at all, may be found in the stomach after death, in consequence of vomiting? and does not Dr. Coates tell you, that a stomach inflamed as was Mr. Chapman's, might be dissolved and no traces of arsenic whatever be detected? Does not Dr. Mitchell tell you, that there may be poison enough in a stomach to produce death, and not a particle be found after death? Do not, indeed, all the witnesses, but Dr. Togno, seem to admit, that a person may die of arsenic, and no trace be found? But what confidence can you place in the opinion of Dr. Togno? My colleague has already satisfactorily shown to you, that this gentleman, to say the least of his evidence, has failed entirely in his recollection of what the authorities lay down on this subject. You have seen that they entertain no such opinion, with respect to the reduction of the metal, as Dr. Togno has thought proper to attribute to them. I am, however, willing to admit, that there should be some *traces* of arsenic detected, before a jury would be authorized to pronounce upon its presence, when the life of a fellow being is in jeopardy. Were there not clear and distinct traces of arsenic discovered in this stomach? Does not Mr. Clemson tell you, that if in the examination of a mineral substance, he had found the same results, which were produced in this case, he would have pronounced upon the presence of arsenic. Do not forget, that the point we are now discussing is strictly a scientific inquiry, and that here you have the unqualified opinion of a gentleman, who is by profession a chemist, and who has been engaged for the last few years in the laboratories of the most eminent chemists which France has produced. Mr. Clemson has been employed in the School of Mines—the best analytical school, Dr. Mitchell says, that exists in any country; and he has also spent some time in the school of Robiquet, in the most delicate medical preparations. Independent of all these opportunities, Dr. Mitchell has

borne honourable testimony to his skill and science, for he has told you that he may be relied on, and that he believes him to be a most excellent analytical chemist. Now I ask you, is the opinion of a witness, who comes before you thus warmly recommended, to be disregarded? Is the opinion of a man, who has made the science of chemistry his sole and exclusive pursuit, entitled to no weight? In matters of scientific inquiry, the law not only authorizes you to receive, but requires you to be governed, in a question relating exclusively to such science, by the opinions of those persons to whose profession its cultivation more particularly belongs. It was the peculiar province of Mr. Clemson to determine whether this case exhibited any traces of arsenic. He was called upon for that purpose; and having expressed to you unhesitatingly his solemn conviction that such traces were found, it is your bounden duty to place implicit confidence in his opinion—uncontradicted as it is by a single scientific witness. Suppose that the arsenic had been here produced in this court, would you not be under the necessity of relying upon some one acquainted with the substance for your opinion, as to its really being arsenic? If you were not chemists, you could not recognise it as such, but you would be compelled to depend upon the opinions of either Mr. Clemson, or some other individual. Why then would you place any more confidence in his opinion, thus given, than you would when he tells you, that if he had obtained the same results in the examination of a mineral, he would have pronounced upon the presence of arsenic? Both opinions must be founded upon his skill and knowledge; and if you would believe him in the one instance, you must in the other also. But if there were no arsenic in this stomach, in what manner do you account for this arsenical smell? It was distinctly perceived by all the gentlemen who were present; and it was impossible for any substance, which has been said to produce a similar odour, to have been present in this case. All animal and vegetable matter had been destroyed by the nitric acid. But have any one of the witnesses acknowledged that they could be readily deceived in distinguishing this smell from all others? Mr. Clemson denies that any substance will emit a like odour; and the attempt which was made to test his skill in detecting this smell, by heating the three tubes over a spirit-lamp, and the promptness with which he at once pronounced upon the presence of arsenic in the only one, which really did contain it, must satisfy you of his accuracy, and the truth of what he says. But, argue our friends on the other side, if there were arsenic enough in the tube to emit the alliaceous odour, there was also enough to detect it in its metallic state. But, gentlemen, we contend, that if vomiting may eliminate the poison entirely, it may eliminate it in so great a measure as to account for the partial results, which have been produced in this case. But even admitting their position to be correct, is there not every reason to believe, that an arsenical ring would have been formed in this tube if it had not broken; and thus the fumes, which involved the sublimed metal, have escaped? So strong indeed was this alliaceous odour, that Mr. Clemson turned round, and inquired if some one were not burning arsenic in the room. This circumstance has, however, been already forcibly commented upon by Mr. Reed, and has afforded an opportunity to the counsel who last addressed you, to display that happy talent which he possesses of turning the most grave and serious subject into gaiety and merriment. His remarks on this subject may indeed create a passing smile, but they never can carry conviction to the mind. He is not only unwilling that you should exercise the sense of smelling, but he is equally unwilling that you should exercise the use of any of your senses in determining this matter. If you hear an authority read which militates against his doctrine, or a witness examined, whose testimony does not suit his side of the question, he tells you that you must place no confidence in what you thus hear. If any symptoms have been observed during the sickness, or any morbid appearances noticed on the dead body, which cannot be very readily explained, he tells you that they are equally deceptive, and not to be relied upon. But if we then put in requisition our sense of smelling, and a peculiar odour be emitted, which is not very pleasant to his olfactory nerves, he laughs at the idea of your being able to smell, and says, that if you attempt it, you will certainly be "*led by the nose.*" How are these fastidious gentlemen to be pleased? We certainly have shown a disposition to accomodate ourselves to their tastes, and to humour their whims and caprices; but with all this we have failed, it seems, to produce conviction on their minds. It has been, however, my object now to convince you, and I am satisfied

that I have not had the same difficulty to encounter; and with this impression, I close my remarks upon this point of your inquiry.

I have now, Gentlemen, finished my review of the medical and scientific evidence. The comprehensive view taken by Mr. Reed of this branch of the case, rendered a more detailed examination of it, on my part, entirely unnecessary. Is there one of these medical gentlemen, who has expressed his belief that Chapman did not die of poison? Dr. Togno is indeed the only one who has thus been willing to make a sacrifice of his reputation as a man of science. He founded his opinion, he said, upon the symptoms, the appearances after death, and the chemical tests; but when I requested him to point out a symptom, or an appearance, which distinguished it from an arsenical case, he was unable to do so—and when asked whether he had ever been deceived in the alliaceous odour, he replies, that he cannot say that he ever was. I appeal to you, as men of common sense, whether this opinion of Dr. Togno, for entertaining which he can assign no reason, will have the slightest influence upon your minds? Contrast his testimony with the evidence of the other witnesses and you cannot for a moment entertain a rational doubt of the death of Mr. Chapman having been occasioned by poison. I care not to what part of the testimony you refer, whether to the symptoms, the appearances of the body after exhumation, or to the results of the chemical analysis, still the conclusion must be the same. Remember that you are not called upon to form this opinion from the symptoms, considered alone, and without any reference to the appearances upon dissection, or the chemical tests—but that we ask you to consider all these circumstances together—You have however the opinions of both Dr. Coates and Dr. Hopkinson, founded exclusively upon the symptoms of the disease, and the morbid appearances of the body after death, that the deceased died of poisoning; and in addition to this you have the same opinion given by Dr. Mitchell, but founded upon the symptoms, appearances and tests. These gentlemen well know the fearful responsibility, which rests upon them in thus expressing their opinion. They are all well aware, that the sacrifice of the life of a fellow being may be the consequence of it; and nothing but the duty which they owe to the community, and the cause of public justice, could have induced them to give this opinion. The testimony of Dr. Mitchell is indeed a striking instance of the consciousness which he felt of the peculiar delicacy of the position which he occupied, both towards the prisoner and the Commonwealth. He gave no opinion without at the same time giving the reason for such opinion—Nay so extremely cautious and tender of the life of the prisoner did he seem, that he always surrendered his own opinion, whenever it differed from the doctrine which was entertained by the best authorities, who have treated of this subject. Remember also that these witnesses have all formed their opinions, without any regard to the facts of the case.—You however, have the right, to take into your consideration, all the circumstances which we have proved. If then you connect with what may be termed the scientific testimony, the admission, made by the prisoner in her letter to the Consul, of the probability of his having been poisoned, together with the fact that arsenic was purchased by a resident of Mr. Chapman's family, the day before his illness, you will, in the words of Dr. Mitchell, "be unable, after a careful and considerate view of the whole ground, to resist the conclusion that William Chapman died because of the presence of arsenic in his stomach."

The next question for your consideration is, to ascertain by whom, or through whose agency, this poison was administered.

It is true, that evidence of the guilt of the accused is altogether circumstantial; but have we not laid before you that irrefragable proof, which my friend Mr. M'Call required. I am willing to meet our opponents upon their own ground, and I agree entirely with them, that the circumstances proved must not only be such as lead to the conclusion of guilt, but must be entirely inconsistent with innocence. Look at the circumstances of the case, and test the guilt or innocence of the prisoner by the principle laid down by her own counsel. Are they not entirely inconsistent with every presumption of her innocence? And do they not irresistibly lead you to the conclusion of her guilt? You have not merely one fact, but you have a long chain of circumstances proved by different witnesses, all leading to the same conclusion.—There can be no deception in evidence of this character.—It is the safest and most satisfactory evidence upon which a jury can convict; and notwithstanding the cases, which have been read to you to show that innocent men have sometimes been executed and convicted upon circumstantial proof, I boldly affirm that there have been

more cases of judicial murder, where the conviction has been founded upon what is termed positive proof, than has ever taken place in cases depending upon presumptive evidence. The cases in the appendix to 2 Phillips, some of which have been read, were the result of conspiracy and of perjury. Would you, Gentlemen, be more willing to convict upon the testimony of one witness, who swears positively to the fact, than upon a long train of circumstances all inconsistent with innocence, and each one of which is proved by different witnesses? In the one case, perjury may be committed—but in the other, it is almost impossible, that it could be, without immediate detection. It makes no difference, however, what may be the nature of the proof, provided you are satisfied of the guilt.—If it remove all rational doubt of her innocence, you are bound by your affirmations to find a verdict of guilty.

Did then the prisoner at the bar commit this murder? Did she, who should have ministered to his wants in the hour of sickness and of death—she, who was the wife of his bosom and the mother of his children—did she become the “*traitress fiend*,” and raise the hand of treason and of murder against the life of her husband? I am well aware of the reluctance with which the mind is brought to the solemn conviction of guilt so atrocious and so appalling! And that we have no right to call upon you to pronounce a verdict of guilty until we have satisfied you that she could have been restrained by no affection for her husband, and that she was operated upon by a motive sufficient to impel an abandoned and profligate woman to the commission of a crime so unnatural. In the first place then, what were the feelings which she cherished towards her husband? Were they the feelings of a wife? It has been strongly contended by her counsel, that there has been no evidence of unkindness, on her part, towards her husband; and several witnesses have been called to prove that they lived on terms of the greatest kindness and harmony with each other. These witnesses, however, all refer to a period prior to the arrival of Mina at Andalusia. But is not the evidence clear and explicit, that almost from the very moment of Mina’s becoming an inmate of her house, to the hour of her husband’s death, she manifested the most deep and loathing hatred, and seemed actuated by a brutality of feeling, which could only characterize a woman so base and depraved as she seems to have been. This ill treatment of her husband was not exhibited merely at one time, and upon one occasion, but at all times and under all circumstances. The presence of her children, her servants, or indeed of strangers, did not prevent her from displaying the hatred and contempt which she felt for him. Nay, did not this ill treatment attract even the attention of the children who were entrusted to her care? Does not Mary Palethorpe tell you that she thought Mrs. Chapman did not treat her husband well?—that she called him a fool, as they were going to church one Sunday?—and that she quarrelled with him about the carriage and horses; and permitted Mina to take them to the city, in defiance of the positive orders of her husband? Is there any thing in treatment of this kind which manifests either respect or affection? What, do my friends on the other side really mean to say, that a wife may call her husband a fool, and still entertain feelings of respect for him?—that she may disregard his wishes and violate his express directions, and still live in harmony and love with him? If this be what they mean, then indeed does their idea of happiness and harmony, which should exist between a husband and his wife, differ in every respect from what I am confident you entertain. Some little irritation of feeling will, no doubt, at times take place in the best regulated tempers; but rely upon it, Gentlemen, that the woman who will, in an angry manner, call her husband a fool, has sacrificed not only her affection for her husband, but all respect for herself. It is impossible that it can be otherwise; and the counsel certainly calculated much upon your credulity if they supposed that you could for a moment think differently. If, however, you do believe, that a wife may call her husband a fool, and still respect him—that she may disobey him, and still love him, then I point you to the testimony of Ellen Shaw and Mrs. Bache, and ask you whether a wife, who will not only tell her husband that she is ashamed and tired of him, and that “*she wished to God he was gone*,” but who will compel him to make the bed in which he sleeps, under the penalty of losing his breakfast, can be actuated by any other than the feelings of a savage or a demon? But this is not even all. It was not merely in vain words and idle threats that she vented her malice and her venom. She was as active with her feet as she was with her tongue; and absolutely had the daring effrontery to strike him with her foot. Yes, Gentlemen, this

loving and affectionate wife, as she has been represented by her counsel, actually kicked her husband with violence, in the presence of her servant; and in other respects treated him with so much cruelty, that Mrs. Bache refused to return to the house! Will my learned friends contend that such acts also are an evidence of conjugal peace and happiness? Will they still call for the proof of dissension and dissatisfaction? If they do, then indeed may it be a matter of congratulation to some of us, that we are still the arbiters of our own fate. If the prisoner at the bar had been a household fiend, instead of the wife of the deceased, could she have exhibited greater cruelty and indignity, or could she have exercised a more absolute and tyrannical dominion over the actions and the feelings of her husband? And still in the face of all this testimony, you are called upon to believe, that they lived together harmoniously, and without any want of the proper respect or affection which a wife should feel for her husband! It is impossible for you to do so. Nay, it is an insult to your understanding to suppose that you would, for a moment, suffer even the shadow of a doubt to flit across your mind about a fact as clear as the noon day sun.

Such was the feeling that existed between the deceased and the prisoner, during the residence of Mina in the family. It is not contended, on the part of the prosecution, that they had any personal acquaintance with each other, previous to his first visit at Andalusia, on the 9th of May. We agree with her counsel, that she was most shamefully deceived in the character of this man. Both sides, it seems, have been equally anxious to make out this fact of deception. If my friend Mr. Brown has been led into error by this course, it may be a subject of regret, but certainly it cannot be a proper subject of complaint. They now, however, understand us, and I wish you, Gentlemen of the Jury, also to understand us, that we are willing to admit that Mrs. Chapman placed the most implicit confidence in all the foolish and absurd stories with which Mina amused her, about the gold and silver mines belonging to his mother—his distinguished rank—and his connexion with the Mexican minister. The whole testimony proves conclusively, that in the splendid and magnificent imagery with which she clothed the future, she never suspected him of being a convicted felon; but that, on the contrary, she believed him to be a foreigner of distinction and of wealth, and possessed of the means of raising her to the same high rank, and of sharing with her the immense fortune with which he was gifted. The visit to the consul, the treatment which he received from him, equally honourable to that gentleman, both as a man and as a representative of his government, and the forged letter which was written on the 16th of June, and which purported to be from Col. Cuesta himself, were all calculated to deceive a person less willing to be deceived than the prisoner at the bar. Indeed, so completely enmeshed was she in his web of villainy and deception, that one branch of her family was induced to leave a distant part of the Union, to share in his proffered liberality. Every thing was to be done in the Spanish style. A new seat was to be purchased—the old mansion was to be refitted, and Andalusia was to be made a perfect Paradise—and all according to the modern Mexican fashion, and by the magic power of his splendid fortune. She heard with a listening and credulous ear, the extravagant representations, which he made of his boundless wealth, and in the glorious visions of the future, which her fancy created, the mines of Mexico opened to her view. It was

“The love of gold, that meanest rage,
And latest folly of man’s sinking age,”

which first captivated her imagination, and constituted the impelling motive for the commission of this crime, the blackest in the dark catalogue of offences. This thirst for gold was the “bane of her bliss and the source of all her woes.” It was the “canker worm” which fed upon her heart, and corrupted and effaced from her mind the last vestige of moral principle and virtuous feelings, by which she might still have been actuated. It is true that another passion soon succeeded, and that passion was the guilty love which she cherished for this individual, who was thus, in her opinion, possessed of all that wealth, and rank, and power, could bestow. For the honour of human nature, as well as for the honour of the female character, I would willingly drop the curtain over a scene disclosing so much profligacy and licentiousness as the testimony in this cause has presented to our view. But her counsel have

dared to attack this strong point of our case. They have dared to bid defiance to the proof which we have offered, and to deny that there is any evidence before you of an illicit intercourse having taken place between them. It becomes my duty, therefore, to lay aside all feelings of delicacy, and to present you this evidence in the plain and homely garb of truth.

So strong and clear is the proof of this illicit intercourse, that if the prisoner were now upon her trial for adultery, it would be sufficient to convict her of that offence; and the wife who can defile the marriage bed, will have no hesitancy in taking the life of that husband, of whose peace and happiness she has already become the murderer. Let us turn for a moment to the testimony of Ellen Shaw, and what does she tell you? Remember that this witness left there about two weeks before the death of Mr. Chapman; and therefore all the impropriety which she details took place prior to that period. She tells you that Mrs. Chapman and Mina were in the room together nearly all the time—that they frequently went out riding—that "*she has seen her kiss him, and him kiss her*"—and that she has seen her in Mina's bed-room repeatedly. Yes, Gentlemen, she has not merely seen her in his bed-room, but she has found her at nine o'clock in the evening, sitting upon the bed in which he was laying, with nothing but the night-clothes around her. Will the counsel say, there is no impropriety in this conduct? Will they say that it furnishes no evidence of an illicit intercourse? What! the mother of five children to be caught kissing a young Spaniard with attractions so powerful and irresistible as Mina is said to possess; and still no evidence of a guilty passion? What! I repeat, a married woman to be found thus dressed, and at this time of night, sitting on the same bed in which a young man, comparatively a stranger, of twenty-three or four years of age, was lying, and still no evidence of a guilty passion? The very recital of such conduct creates feelings of disgust and abhorrence; and we turn with indignation from the exhibition of such glaring outrages upon the laws of decency and of good morals. So conscious, indeed, were her counsel of the effect which this evidence would have upon your mind, that they have endeavoured to account for it by alleging that Mina was subject to fits; and that Mrs. Chapman attended him during such illness. Admitting, for a moment that he had fits, was it absolutely necessary that *she* should attend upon him? Nay, even if there were such a necessity, does it constitute an apology for her being thus undressed and upon his bed at that hour of the night? Could she not have taken the same care of him, and manifested the same kindness, in a different dress, and in a different situation? Most assuredly she could. But I deny that Mina ever had, while at Andalusia, such fits as have been described. These fits were got up for the occasion. They constituted the pretext for her absenting herself so much from her family and her school, and devoting herself almost exclusively to the society of Mina. She well knew that her conduct would attract observation, unless some plausible reason could be assigned; and certainly none so well calculated to answer the purpose could have been devised, as the story of the fits. Did these fits ever affect his general health? Was he not apparently as well, and as gay, and as happy within half an hour afterwards as he ever had been? Do not the witnesses all tell you, that they never saw such fits? Do we hear of his being attacked with them at any other time, but when Mrs. Chapman was present? And is it not a singular circumstance, that at such times she never required the assistance of any one of her family, but on the contrary, drove them all from the room, and not only locked the door, but closed the window shutters. I confess that I have not much experience in matters of this kind, but it does seem to me to be an extraordinary mode of treating such a disease! Persons in a fit require a strong arm to manage them, and it certainly is the first time, that I ever heard of every individual who could render any assistance being driven from the room—the doors closed—the room darkened—and none but a female to take care of the patient! But again, is it not equally extraordinary that Mina should only have been attacked with these fits while at Andalusia? We have no evidence that he was ever afflicted with them at any other time, either in his visits to the city, or elsewhere, excepting during the ride to Wright's, when he had a slight attack, but recovered as soon as Ellen Shaw undertook to drive, and he could be seated by the side of Mrs. Chapman! And the first intimation we have of the fits at all, was not until three weeks after he had resided in the family, and had contracted that ill-fated intimacy with the prisoner at the bar. If he had been subject to them before, it was in the power of the counsel to have shown it. Mina went immediately from the penitentiary to the house of Mr. Chap-

man, and why did they not prove by Dr. Bache, who is the regular physician of the Walnut street prison, and who has been examined in this case, that he had fits during his confinement there? If any thing would be calculated to produce them, his situation as a convict in the penitentiary surely would be—but not a tittle of testimony has been adduced to show that he had even the slightest symptom of fits of any description during his imprisonment in that building. On the contrary, we have proved by Mr. Deacon, the keeper of the prison, that he had never heard of his having been thus affected, and that if it had been the case, he thinks that he would have known something about it. But this is not all. Is there any evidence before you, that he has had a similar attack during his imprisonment in the gaol of this County? Why have they not called upon Dr. Rich, the attendant physician, to testify upon this subject? As heavily ironed, and confined as he has been, and necessarily suffering so much during this cold and inclement season of the year, it is but reasonable to suppose that a recurrence of these fits would have taken place. But not a word of the kind has been offered. If, however, they were even real, in what manner will you account for "*her kissing him, and him kissing her?*" Why have my friends passed by this in silence? Why have they not favoured us with a single word or remark, explanatory of conduct so much at variance with all our notions of propriety and decorum? Can it be that this part of the testimony was forgotten? Would they call this an indication of his disease? Really, Gentlemen, there is but one kind of fit, of which kissing is an attendant symptom, and that is what we generally denominate *love fits*. He had all the symptoms of this complaint, and there can be no doubt of its being the only description of fit which disturbed his peace, and the cure for which Mrs. Chapman so well understood.

If, however, you require still further proof, then I call your attention to the disgraceful scene which the visit to Wright's discloses. (Here Mr. Ross adverted to her permitting Mina to lay his head in her lap—to her going into the woods with him—holding him in her arms, and singing love songs to him, &c., and then proceeded.) Was there ever a greater degree of profligacy, or a more entire destitution of all moral principle, manifested by any one, than was exhibited during this ride to Wright's? Evidence of such gross depravity and wantonness, may indeed mantle your check with a glow of shame and indignation at the weakness and degeneracy of human nature. It is indeed painful to behold a woman, who had reached the meridian of life, with a family of young and interesting children around her, all dependent, in some measure, upon the good name of their mother for their future reputation, thus surrendering herself to the vilest excesses of criminal indulgence, and becoming a spectacle so odious and debasing to the moral sense of the community. Her counsel have not dared to excuse, or even palliate, this open and shameless exhibition of vice, but have denounced the witness, who has presented the frightful picture, as a perjured being, ready and willing to sacrifice the life of the prisoner to the gratification of her malignant feelings. Gentlemen, wherein, I ask you, has Ellen Shaw evinced all this venom and antipathy, of which my friend, Mr. M'Call, has spoken? From what cause could her malignity proceed? It is true an effort has been made to prove to you, that this witness and Mrs. Chapman had quarrelled, and that she dismissed her from her service—and that now, in order to vent her malice and her spleen, she comes forward, brooding over her wrongs, not only to blast the reputation, but to take the life of the prisoner. Has this been proved? Have they not utterly failed in making out this fact? The character of a witness who is brought forward by compulsory process, should not be thus destroyed by the mere assertion of counsel. There is no evidence that they quarrelled, or that she was dismissed. Did not Ellen Shaw remain with Mrs. Chapman, at her special request, a week or two after she had expressed the intention of quitting her service? So far indeed from her being driven from the house by Mrs. Chapman, the reason, and the only reason for her going, was, that her friends became dissatisfied with the conduct of Mina and Mrs. Chapman, and earnestly solicited her to seek employment elsewhere. But even if it were true, that she had been dismissed, would it be a sufficient motive for perjury so wilful, and so awful in its consequences? Why, if she were the monster which has been depicted, has not some one of her neighbours been called to prove her malignity, and to impeach her credibility? She is an aged woman—the mother of children—and has been long a resident of this county, and nothing but the desperate necessity, to which our opponents were compelled to resort, could justify the fierce attack which has been made upon her character. We rely,

however, not upon the testimony of Ellen Shaw alone, for the proof of this part of the cause. Is Mrs. Bache perjured too; and Mary Palethorpe, and Ann Bantom, and Edwin Fanning—are they all perjured? Does not Mrs. Bache tell you, that she was employed to do some sewing for the family, but that in consequence of the ill conduct of Mrs. Chapman and Mina, she did not return to the house? Does not Mary Palethorpe tell you that they spent a great deal of time in each other's company—that they frequently rode out together, and that, when these pretended fits came on, Mrs. Chapman drove them all out of the room, and remained alone with him? Does not Ann Bantom tell you that she has seen Mrs. Chapman in Mina's room, sitting on his bed side, while he was lying in bed? And does not Edwin Fanning tell you, that at the time Mrs. Chapman was absent from home three days with Mina, her husband was almost driven to madness by the conduct of his wife, and requested the witness to sit up and inform him whether she went with Mina into his lodging room, when they returned; for, said he, if she does, "*by God, I'll kill him and take his life—I'll not have my peace so disturbed?*" Do these things prove nothing? Do they not corroborate in every particular the testimony of Ellen Shaw? Does his saying that he would not be surprised if Mina and his wife run off together—that he wished the ship had sunk in which he came to this country, and his running about like a crazy man, weeping bitterly over the dishonour of his house, prove nothing? If they do, "*Why then the world, and all that is in it, is nothing.*" Who indeed can listen without emotion to the account which has been given of his agonized feelings, without being satisfied that the deceased had

"Seen and heard
Enough, beyond suspicion's pale distrusts,
To damn him with the knowledge of his fate."

But let us turn for a moment to the letters which have been read in evidence; and do they also, I ask you, prove nothing? I will not wound the feelings of delicacy by again reading them to you—It would be both useless and improper to do so; for the sentiment of disgust, which they must have created, cannot so soon have been effaced from your mind. It is true they were written after the death of Mr. Chapman, and subsequently to her marriage with Mina; but do they not bear the impress of the corrupt heart and profligate principles of the writer? Will any one pretend that there is the least spark of virtue flickering in the heart of that woman, who can write, within two weeks after the death of her husband, such grossly licentious letters, as those dated at Albany and Syracuse; or who can receive such as are, if possible, still more wanton, as those written to her from Washington?—They require no commentary.

I now appeal to you, not merely as men having some knowledge of human nature, and of the virtues which adorn the female character, but I ask you as husbands and as fathers, whether we have not laid before you the strongest evidence of hatred and contempt for her husband—whether we have not clearly established the illicit intercourse with the Spaniard Mina—and whether we have not satisfied you that the prisoner at the bar has, throughout her whole acquaintance with him, evinced an entire recklessness of principle, and the grossest licentiousness of feeling? It requires not the pencil of exaggeration to pourtray the picture of her infamy. If we reflect upon her age, and the relation in which she stood to society as a mother—a wife—and an instructress of the infant mind, I think I may truly say, that her conduct has seldom been surpassed in the annals of profligacy. Take in connexion with all this evidence the damning fact, that Mrs. Chapman expressed her intention of going to Mexico a few weeks before her husband's death, and that after his decease, she was not only making preparations, and arranging her affairs, for that purpose, but had brought her sister, Mrs. Green, from New York, to take charge of her house in her absence: and can you—can any reasonable man ask, where is the motive for thus becoming her husband's murderer, and her children's shame?

Having thus, I think, satisfied you as to the motive, and the absence of all moral principle, I shall now proceed to examine the evidence, which has been adduced to prove that the poison was purchased and administered with the privity of the prisoner at the bar.

In the first place, it is proved by the most unquestionable evidence, that a quantity of arsenic was purchased by Mina at the store of Mr. Durand, on the 16th of June, a day or two before the deceased was taken sick. For what purpose was this

arsenic purchased? It could not be to use in the preparation of birds; for the witnesses have sworn positively, that he never had a bird in his possession while at Andalusia. Previous to that period, he was for a long time confined in the Penitentiary, and therefore he could not by any possibility have made the purchase of this arsenic for the preparation of birds. What then did he intend doing with it, and why was it purchased, unless it were for the purpose of enabling the prisoner to take away the life of her husband? But say our friends on the other side, although Mina may have bought arsenic, and have assigned a false reason for its purchase, still you have no right to connect Mrs. Chapman with him in this transaction, unless some evidence has been offered to show a privity and community of design. Has not this been done? Have we not laid before you the strongest possible proof of which the nature of the case is susceptible, that they were acting in concert? We have proved an illicit intercourse between these individuals—we have proved that the prisoner, before the death of her husband, expressed her intention of going to Mexico—and we have not only thus proved that Mrs. Chapman had every motive to procure the purchase of this poison, in order that she might relieve herself of a husband, whom she loathed and despised, and who was the only obstacle that could defeat the gratification of her ambitious hopes, and the attainment of all that wealth and splendour which had so long dazzled her imagination—but we have also proved the purchase of the arsenic by Mina on the 16th of June, and that Mrs. Chapman was in the city the same day, at the store of Mr. Watkinson, which is in the same street, and immediately opposite to the drug store of Mr. Durand. Yes, Gentlemen, I am correct in saying that, from the evidence, Mrs. Chapman was in the city on that day: for the black suit was purchased on the 16th of June, and it is proved by one of the witnesses, that she returned with him from the city, at the time this suit was obtained. Do not these facts alone show a community of design? She was not, to be sure, in the drug store when it was bought, but she was at the corner directly opposite, and therefore, though not actually present, she was so constructively, and to all intents and purposes. Connect then, with all these circumstances, the fact, that within eleven days after the funeral of her husband, she married the individual who had thus purchased the arsenic, and can you feel any hesitancy in determining, that it was done at her special instance and request? Is it possible, that you can resist the effect of testimony showing so conclusively a concert of action and a community of design? What! the arsenic purchased on the 16th of June—the husband buried on the afternoon of the 24th—the marriage in New York on the morning of the 5th of July following—and the sister brought from Syracuse to take charge of her family during her absence in Mexico—and still no evidence laid before you of a combination or conspiracy between these individuals to commit this crime? But what motive sufficiently strong could induce Mina to buy this arsenic *voluntarily*, and without the knowledge of the prisoner? It will not be pretended that he was sincere in his profession of love and admiration for a woman of Mrs. Chapman's age and appearance, or that he ever seriously intended to take her to Mexico. So far from it, that even after he had married her, he made proposals of marriage to one of her nieces, to whom he no doubt told the same story about his gold and silver mines, his noble blood, and his distinguished rank. In what part of the testimony which has been offered to you in this case, do you find this inducement for him thus *unaided and alone*, to take away the life of an innocent and unoffending man. Of Mr. Chapman, he might indeed with much truth have said, as the counsel in his opening has already remarked, in the eloquent language of Scripture. "I was an hungered, and ye gave me meat; I was thirsty, and ye gave me drink; I was a stranger, and ye took me in; naked, and ye clothed me; sick, and ye visited me." Is it not indeed more fair to presume—nay, is it not the only rational conclusion which can be drawn, that the arsenic was purchased with the knowledge, and at the instance of the prisoner?

The deceased was taken sick the very next day after their return from the city. I do not allege that his sickness was then caused by the poison. It may have been produced by natural causes, though it is more than probable that some other ingredient calculated to produce a slight indisposition was given to him, in order that the arsenic might be afterwards administered with greater safety. No physician saw him, until Sunday, the 19th, when Dr. Phillips found him so slightly indisposed, that he considered further medical attendance unnecessary. It is also in evidence, that he was better the next morning, and continued so until he had taken a portion

of the soup which Mrs. Chapman prepared for him. It was in this soup, and on this day, that we allege the poison, of which he died, was administered. If any had been given to him before, it is evident that he had recovered from its effects. This soup was prepared by Mrs. Chapman herself. It was taken by her from the kitchen—not to the sick room of her husband—No, Gentlemen, but to the parlour, for the purpose, as she stated, of *seasoning* it. Who ever before heard of a parlour being appropriated to such a purpose, or, indeed, of seasoning being put in articles of diet prepared for sick people? What kind of seasoning could she have wanted? The maid servant says that she had put salt in it, before it was taken from the kitchen. I do not pretend to know much about the domestic arrangements of families, or of the proper mode of treatment to be adopted in cases of sickness, but certainly a parlour is the last place where I should expect to find those articles of seasoning, which are in almost daily use: and the soup prepared for a sick man, the last article of diet in which I should suppose seasoning of any description to be put. Has there been the slightest evidence offered, to show that there had ever been seasoning of any kind kept in this parlour? If this had been the case, it might, I should suppose, have been easily done: but is it at all probable that it was the fact, particularly if we consider the remote situation of this parlour from the kitchen? But even if seasoning were kept there, why not send one of her servants for it? Why should she herself take it to this room? And is it not also a circumstance equally singular and unfortunate for the innocence of the prisoner, that Mina was the only individual in this room at the time the soup was taken up? Turn to whatever part of this case you please, and the image of this man, like the ghost of the murdered Banquo, rises up before you. Why did he happen to be there just at that moment? Is it not evident that he was in the room prepared with the seasoning which Mrs. Chapman wanted—that he was waiting with the arsenic to aid her in mixing it with the soup, which was to render her children fatherless, and stamp her with the infamy and the guilt of so foul and so treacherous a deed as a husband's murder? Go to the room where the preparations for this deed of death were being made—lift the curtain, and behold that wife, who had plighted her faith, and sworn in the face of heaven, obedience and protection to her husband, plotting and conspiring against that husband's life! Behold her, who should have stood by him in the hour of danger and of need, who should have comforted him in his sorrows, and mourned with him in his afflictions, preparing with her own hand the deadly potion, which ~~was~~ to deprive him of his life! Behold her as a mother, violating not merely the laws of God and of man, but trampling under foot the most sacred ties of nature, and becoming the murderer of her children's father—then ask yourselves, whether, in the long and dark array of guilt which the depravity of man exhibits, there can be found a crime more revolting to our feelings, or one deeper and blacker in its dye, than that which is now presented to you?

It makes no difference by whom this soup, thus poisoned, was administered to Mr. Chapman—whether by the prisoner at the bar, or by her daughter Lucretia. If you believe that the poison was mixed in it by Mrs. Chapman, with the intention of destroying her husband; and that it was afterwards administered to the deceased by an innocent individual, she is guilty of the offence as charged in this indictment. But are you not justified by the evidence in saying that the prisoner herself administered it? Mrs. Hitchbourn testifies, that Mrs. Chapman told her she had given the soup to her husband, and Ann Bantom swears positively, that the soup was not only taken from the kitchen by Mrs. Chapman, but was also brought down by her; and that at the time it was prepared, she said it was intended for her husband. It is true, that in this part of her testimony, Ann Bantom has been contradicted by Lucretia Chapman. Far be it from me to accuse this interesting and intelligent child of wilful misrepresentation, or to blacken her character with the guilt of perjury. You cannot, however, forget, that it is *her* father, who is murdered, and *her* mother, who is the murderer. She no doubt comes forward to testify, with all the feelings of a daughter, anxious to rescue from the imminent peril of her situation, that mother, even though her hands be reeking with the blood of that father. If in addition to her peculiarly interesting situation, we consider her extreme youth, and the time which has elapsed, it cannot be a matter of surprise, that she should have committed some errors in her testimony. Thus, she says, that the soup and chicken were taken to her father's room by her sister Mary at the same time—whereas, it is proved by Ann Bantom, that the soup was taken up in the morning before dinner,

and the chicken not until some time during the afternoon. Ann Bantom is corroborated in this statement by the story, which Mrs. Chapman told Mrs. Hitchbourn and Mrs. Smith. To both these persons she stated that the chicken was taken up by Lucretia, not by her daughter Mary, and not until after he had eaten a bowl full of the soup. But there is another circumstance, which strikes me as singular in the testimony of this little girl—and that is, that the chicken should not have been cut up before it was sent to his room; and that the deceased himself should have carved it, although he was then unable to sit up, and although his two daughters, Mary and Lucretia, were in the room with him. It is unnecessary to comment upon these matters, for I am even willing to concede all that Lucretia says about the *taking up* of the soup, and her eating a portion of the chicken. It in no way affects this prosecution. I do not pretend, that the whole of this soup was poisoned; or that any portion of that, which was given to the deceased in the presence of Lucretia, or which was brought down to the kitchen, and thrown into the yard, was poisoned. Far from it. Steeped, as the prisoner evidently is, in guilt, still, I cannot believe, that she was so entirely lost to all the feelings of human nature, and deadened to the affections of a mother, as thus recklessly to become the destroyer of her children. No, gentlemen, a regard for her own safety, if not for her children, would have restrained her from doing so imprudent and so horrible an act. She managed the whole machinery of this murderous plot with more cunning and skill. It was indeed, all admirably arranged to prevent detection. When the soup was taken to the parlour, a portion of it was put in some other vessel, with which the arsenic was mixed; and this was afterwards given to Mr. Chapman, when there was no eye to see, and no ear to hear. But, asks my friend, Mr. Brown, if this chicken, which was brought down and thrown into the yard, were not poisoned, how are you to account for the death of the ducks? There is no difficulty in doing this. These ducks, I again repeat, were poisoned, but not from eating the soup which had been thrown out. You recollect Mr. Boucher states, that when he first saw these ducks crossing the road, Mina was standing by the buttonwood tree in the yard, from which they came; and that, as soon as he observed him, he went immediately into the house. What was he doing? Why did he thus hastily leave the yard? Why did he go into the house so soon as he was observed by Mr. Boucher?—and where was the necessity for his thus avoiding his nearest neighbour? The reason is manifest. A sufficient quantity of the arsenic had been given to Mr. Chapman to effect the desired object. With the residue of the four ounces he amused himself by distributing it among the ducks, which were in the yard. He was feasting his soul with the horrid exhibition of this work of death, when he observed Mr. Boucher. He knew that the ducks belonged to him; and the consciousness of his own guilt, together with the fear of detection, induced him to avoid observation, by entering the house. Can you doubt that such was the manner, in which these ducks were poisoned? Poisoned they unquestionably were; though it has, to be sure, been strongly urged, that it is not an unusual occurrence for large flocks of ducks to die thus suddenly, and without any apparent cause. In the present instance, however, every duck, that had gone into the yard, died, and the only four which survived, were so large, that they could not get through the fence. This mortality was not confined to the ducks, but extended also to the chickens, which had been in the habit of going into this yard. It is needless to labour this point, for it is obvious that these ducks must have been poisoned. Where then is the discrepancy in our testimony? Where is the difficulty in reconciling the poisoning of the ducks, with the fact, that the soup, which was thrown out, was not poisoned? For my part, I am unable to discover the slightest inconsistency in any part of the testimony.

Then, gentlemen, you understand me, that the ducks died from the poison given to them by Mina, in the yard, and that the poison, which caused the death of Mr. Chapman, was administered to him in that portion of the soup, which had been separated from the quantity prepared. Can there be a doubt of this? It was not until after he had taken the soup, that he first complained of the burning heat in his stomach, and that the sudden alteration in the character of his disease first took place. Not a single witness has proved, that they before heard him complain of this burning sensation, or of the other symptoms, which were so indicative of poison. This change for the worse is admitted by the counsel for the accused; but they contend, that it is to be attributed to the large quantity of the chicken which he ate, and not to any poisonous ingredient in the soup. Is it not indeed presumpt-

tuous to suppose that you will believe a story so idle and so absurd? Can it be possible, that any man, who was as seriously ill as Mr. Chapman, would have eaten not only a large bowl of soup, but the whole of a chicken, with the exception of a small piece of the neck? You recollect that Lucretia Chapman testifies, that her father had been vomiting the same morning, and that he was unable to sit up any longer than while they made the bed. Can any man in his common senses believe, that a person under such circumstances would have any appetite to eat at all? Ann Bantom, however, swears unhesitatingly, that there was but a small portion either of the soup or chicken eaten. She was the person who threw it into the yard, and therefore would be more likely to notice it, than any other individual. Will you not believe this witness? She certainly can have no reason to misrepresent the fact. The counsel have not even attempted to show, that any quarrel had ever taken place, or that any ill feeling had, at any time, subsisted between her and the prisoner; but still you are called upon to disbelieve her testimony, merely because instead of eating the chicken, she threw it into the yard, after it had stood for some time upon the kitchen table. Really, gentlemen, this is a strange reason for disbelieving the witness.

Is there not a great reluctance, among all classes of persons, but more particularly among coloured people, to eat any thing that comes from a sick room? If the witness, instead of having dined a short time before, had been without food for a long time, then the objection to her credibility might be urged with more force and effect. As it is, her evidence is entitled to the fullest confidence. But again, was there any thing said by the deceased during his illness, to any one, about his having eaten this chicken? It was certainly natural, if such had been the fact, that he should have expressed some fear, some regret, in consequence of so great an imprudence as eating a whole chicken. But not a word of the kind did he mention to any one, not even to his physicians. Was there any thing said by Mrs. Chapman to Dr. Knight about this being the cause of his illness? No, not a word. Was there any thing said to Dr. Phillips about the chicken, when he called the second time, and expressed his astonishment at the unexpected change which had taken place? No, not a word. Was there any thing said about it to Ann Bantom, who had seen her prepare the soup, and to whom she talked respecting her husband's sickness? No, not a word. Was there any thing of the kind said to Bouthcher, Mary Palethorpe, or, indeed, any one about the house? No, not a word. No, Gentlemen, not a syllable is lisped by her respecting this chicken, until after the grave had closed over his mortal remains. If it had been the cause of the great change, which took place on Monday, would she not have said something about it, at least to the physicians? So far, however, from doing so, it seemed to be her object to impress Dr. Phillips with the belief, that he had an affection of the head. But what must add still more to the suspicion of this story is the fact, that she has varied in her statement, which she made to different individuals, of the original cause of his sickness. To Mrs. Hitchbourn and Mrs. Smith, she mentions the pork and the smear-case, but not a word is said about them either to Mr. M'Ilvaine or to Mr. Fanning, in the account which she gave them of her husband's illness. Nay, she tells Mr. M'Ilvaine that they were talking together, when he was seized with a violent pain; and to Fanning she said, that it was in consequence of having eaten some stale beef about two weeks before, although even this was untrue, for Fanning had seen Mr. Chapman in the intervening time, and knew that he was perfectly well. But not a word was said either about the chicken or the pork. Why was this? Why assign to Fanning a cause different from that which she had given to the other witnesses? Why not tell him about his having eaten too much of the chicken? She had the conversation with him on the evening of the day when the chicken was prepared; and if there had been any truth in it at all, would she not have mentioned it to him without any hesitancy? Most assuredly she would. But she knew the story was false. She knew her husband was still living, and would be able to contradict it, in case Fanning mentioned it to him, as he would be likely to do. She therefore waited until the spirit had fled, and the body was safely deposited in the grave, before she ventured to put forth so absurd and ridiculous a story. But why has not Mary, the eldest daughter, been called to corroborate this statement? She took the chicken, according to Lucretia's testimony, to her father's room. She was present when it is alleged that it was eaten, and must therefore have known something about it.—There was no difficulty in bringing her forward as a witness, for she has been in

the town during the whole progress of this trial. Why then has she not been examined? Why has the younger of these two daughters alone been called to prove this important fact? Gentlemen, the counsel dared not bring that daughter forward as a witness. They dared not trust her to a cross-examination, and they certainly have acted wisely in so doing. This omission, however, to call her, is a circumstance calculated to excite suspicion, and to destroy the whole testimony of the other daughter, Lucretia. But further, why did the prisoner show such an anxiety to account for her husband's sickness, to strangers, when no disposition of the kind had been manifested towards the physicians, although they expressed their surprise at the unaccountable change which had taken place in his disease? The reason is obvious. She was well aware that it would be impossible to palm this silly tale upon them, and therefore she adopted the more prudent course of being silent.

Every step that we take in the examination of this case, not only carries us nearer its close, but sheds more light upon the guilt of the accused, and enables us to trace the progress of this crime from its conception to its final consummation. Thus another circumstance, which struck me as being remarkably singular, and which must appear equally unaccountable to you, is, that Mrs. Chapman should have addressed a note on Sunday morning to the Rev. Mr. Scheetz, requesting the prayers of the congregation for her husband, who, it was believed, could not recover. This was the 19th of June, the day on which Dr. Phillips saw him, and when he found him so well that he considered it unnecessary to prescribe for him. Yes, Gentlemen, it is proved that Mrs. Chapman actually wrote to the Pastor of the church, requesting prayers for her dying husband, at a time when his physician did not deem medical attention necessary, and when the patient himself thought that a beef-steak would do him more good than any thing else. It is true, that she requested the prayers of the congregation for a person who, according to her own account, was so well, that the next day he ate a large bowl of soup, and the whole of a chicken, with the exception of a small part of the neck! We are indebted to the defendant's counsel, who have so obligingly furnished us with this important fact. If Mrs. Chapman really did believe on Sunday that he would not recover, she must have been more strongly confirmed in her opinion on Monday evening. Her husband was then so ill, that he was vomiting every ten or fifteen minutes, and repeatedly exclaimed, "*I can't live so, I can't live.*" Still, had any medicine been given him? No, none. Had any physician been sent for? No, none. Had any of his neighbours been informed of his illness? No, none. And this is the dying husband, whom this "*loving and affectionate wife*" pronounced the day before beyond all hope of recovery; and still no medicine was given him, no assistance was called in, and no physician was sent for! Is it not evident, that the same motive, which induced her on Tuesday to take the servants to the sick room of her husband, also induced her to write to Mr. Scheetz, requesting the prayers of the congregation? It was to prepare the public mind for the event which was about to take place. She knew that the poison was to be administered the next day, and that his fate would then be sealed. By requesting the prayers of the church, all suspicion would be removed, which his sudden and unexpected death might otherwise create. But whatever may have been her motive in writing to Mr. Scheetz, why was not a physician sent for, if she deemed him so very ill? Living on so public a road as the Bristol turnpike, it was in her power to have forwarded a note to Dr. Phillips at almost any hour in the day. Why was it not done? Why did she not permit Fanning to go for him, when he requested her permission to do so. He not only tells you that he offered to go, but that Mr. Chapman being in great distress, he "*urged the matter, and was again refused.*" Why was his proffered offer rejected? Did she assign any reason for her refusal? No, Gentlemen, but she did not intend that a physician should be brought, until the ravages of his disease had made such progress, that it would be beyond the power of all human aid to rescue him from the death to which they had doomed him. The next day he experienced the same sufferings, and still nothing was done for his relief.—Yes, this wretched and unfortunate man was permitted to linger in the most excruciating agony, until Tuesday evening, before medical advice was sought for, although Dr. Knight lived within a quarter of a mile. But even when the physician came, there is no evidence that a particle of the medicine which he prescribed, was administered. He says, that he ordered calomel, but that Mrs. Chapman objected to it, without giving any reason for her objection. Indeed, in no part of the testimony is there the slightest ground to justify you in deducing the inference, that medicine had been given to him at

any time during his sickness. And with all these facts staring you in the face, you are asked by her counsel to render a verdict in favour of the prisoner! Could positive proof be more convincing? Are not all these circumstances not only conclusive of guilt, but entirely inconsistent with innocence? It is impossible to explain her conduct upon any other principle. If you can account for her pronouncing him beyond recovery on Sunday, and positively refusing to send for a physician until Tuesday night, and then objecting to the medicine, with the story of his eating the chicken and the soup, you will be able to do more than I have done, or more, I believe, than any other twelve men in the county can do. If she had, in other respects, paid him the proper attention, or had treated him with any degree of kindness, or indeed manifested any anxiety for his recovery, her counsel might, with more propriety, proclaim her innocent of this unhallowed deed. But where was this kind, and dutiful, and affectionate, and pious wife, on Monday evening? Was she at his sick bed, ministering to his wants, and watching with an anxious eye, the gradual approaches of his dissolution? Was she, like a guardian angel, hovering around his couch, and smoothing, with her tender and affectionate kindness, the bed of death? Go read the language of the murdered husband, and you will find the answer written in words, which, if her heart be not seared and deadened, must harrow up the torments of the damned.—“*I am very sick. When Don Lino is sick, all attention must be paid to him—but now I am sick, I am deserted—I am left.*” These are the words which he used, when he requested Fanning to remain with him, and take care of him through the night. This wife, who thus deserted her husband, and compelled him to seek protection from strangers, is the same wife, who was regular in her attendance upon church—who had religious service in her family—and who pretended to inculcate the precepts of Christianity upon her pupils. She is the same wife, who had, the day before, sought for the prayers of the righteous, and who afterwards stood before the altar of her God, clothed in the weeds of mourning, to receive spiritual comfort for the loss of her “*dear and beloved husband.*”—

“ There stood hypocrisy, with holy leer
Soft smiling, and demurely looking down,
But hid the dagger underneath the gown.”

The pure and holy garb of religion was assumed by her, to cloak her moral deformity, and to enable her, with greater safety, to carry into execution her unholy designs.

Fanning, however, did remain with Mr. Chapman, until he was requested by the prisoner to leave the room; and for testifying to this praiseworthy and truly pious act, every abusive epithet, which the imagination of Mr. Brown could suggest, has been heaped upon him.—He has been stigmatized as the base ingrate, who for the paltry motive of having his travelling expenses paid, has come two or three hundred miles to testify against his former benefactress and friend. I feel confident, that the envenomed shafts, with which he has been assailed, have fallen harmless at his feet; and that his testimony remains unimpeached notwithstanding the rude assault, which has been made.—It is however due to this much abused individual, to state, that he has come forward as a witnesss at the earnest solicitation of the counsel for the Commonwealth; and there certainly has been nothing either in his demeanour or his testimony to justify the attack of my friend Mr. Brown.—He has not even been contradicted in any part of his testimony. The counsel was well aware of the importance of his evidence to the prosecution, and finding it impossible to counteract its effect in any other way, has directed the fire of his batteries against the credibility of Mr. Fanning.—This mode of attack has however been too often resorted to throughout this case to make any impression upon your minds.

But again, Gentlemen, why did Mrs. Chapman request Fanning, when he was leaving the house on Monday morning, to say nothing about her husband's sickness to any one of her brother's family, unless they made some inquiries; and in case they did, then to tell them, that he was about the same as he had been the day before? Why this wish on her part, not merely to conceal from his relations all knowledge of his illness, but absolutely to misrepresent the true state of his health? She wished the witness to tell a positive falsehood; for Mr. Chapman was then “*very ill,*” though the day before he had been very slightly indisposed. I do not agree with the defendant's counsel, that the testimony of Mr. Vandegrift removes the strong suspicion of guilt, which such conduct necessarily creates.—On the contrary, it tends

much to increase it. Who called Mr. Vandegrift in, as he was riding by the house?—Mrs. Chapman.—Who took him up stairs to the sick room?—Mrs. Chapman.—Who was by, when he was told by the deceased, that he did not wish his brother's family informed of his sickness, or invited to his funeral in case of his death? Mrs. Chapman.—And on whose account was it that he mentioned this to Mr. Vandegrift?—Mrs. Chapman's.—The reason, which he gave, was that he did not wish her censured; and certainly this can constitute no apology for her telling Fanning a wilful and direct falsehood.—It may have been a good reason for her wishing him to be silent, but not for her attempting to deceive his relations in case they made any inquiries about her husband. Neither could a regard for her husband's wishes have dictated this course, because notwithstanding his express injunctions, his brother's family were invited to the funeral. In addition to all this, take into consideration, that this conversation with Mr. Vandegrift took place on the Sunday, when it is clearly proved, that he had no expectation of dying—that it was on this day she wrote to Mr. Sheetz for the prayers of the church—and that the deceased had a few days before written to his tailor for a suit of mourning in consequence of the death of his "*much beloved brother.*" Together with the fact, that Mrs. Chapman at all times exercised an absolute and tyrannical sway over the conduct and actions of her husband, and can you hesitate in believing, that this statement was made to Mr. Vandegrift by her positive command, and with a view to shield her from the suspicion, which would attach itself to her from the omission to inform his relations of his illness.—It was in pursuance of that system of cunning, which has characterised this horrible plot in all its parts, to prevent during his sickness the attendance of his brother's family.—This could not be done with safety to herself, unless she could prevail upon her husband to mention to some one, that he was unwilling to see them. In doing this she had but little difficulty; it was even unnecessary for her to use any art, for we have seen, that in other instances, she commanded, and was obeyed by him without a murmur.—It is only in this way that this strange proceeding of calling to Mr. Vandegrift, and communicating a fact equally strange, can be explained.—But notwithstanding all this secrecy, this cunning, and this artifice, the all seeing eye of **HIM**, who ruleth over all things, and who suffereth not even a sparrow to fall to the ground unnoticed, observed these preparations of guilt, and of death. The finger of Providence pointed to the grave of the murdered; and from the very charnel house of the dead have been revealed to us the proofs of this crime.

"Foul deeds will rise,

Though all the earth o'erwhelm them to men's eyes."

I have already adverted to her marriage with Mina within eleven days after the funeral—and I will now call your attention to the letter written by her to him at Washington, dated the 31st of July.—If you be not already satisfied, read that letter, and take it in connexion with all the other facts of the case, and if you can then rise from its perusal without a solemn conviction of her guilt, it will be strange indeed. The whole letter is full of mystery, and pregnant with much important matter for your consideration; but it is the concluding sentence which stamps her with the guilt of some dreadful deed.—This is the passage to which I refer, "Lino, when I pause for a moment, I am constrained to acknowledge, that I do not believe God will permit either *you or me* to be happy this side of the grave." In what way consistent with her innocence can you explain this language, so striking and so remarkable? Why was she constrained to say, that the Almighty would never permit either of them to be happy on this side of the grave?—If she had said that he never would permit *her* to be happy, the counsel might then have argued, that it had allusion to her unrequited love for Mina, who had deserted and forsaken her; but this certainly would not affect his happiness. No, Gentlemen, it was no disappointed love—it was no worldly affliction, which was thus blighting her happiness. It was the spirit of her murdered husband, with the poisoned chalice, which she had commended to his lips, that was haunting her imagination—it was the never dying worm, which was rankling in her heart—it was her CONSCIENCE, which was corroding her every thought and feeling; and which induced her to exclaim, that God would never permit either Mina or herself to be happy on this side of the grave.

I shall now pass very briefly over the remaining facts, as I am nearly exhausted by the fatigue of this protracted trial. In what part of this case do you find the evidence of her innocence? Look at the manner in which she received the intelligence communicated by Mr. M'Ilvaine, of the suspicion which he entertaincd, that

her husband had been poisoned—evincing no surprise—no shock—no emotion indicative of innocence, but betraying, in a striking degree, the effect of guilty fear upon her “coward conscience.” Why did she say to him, that Mina had been his kind nurse, and had given him a great part of the medicine, when it is evident from the testimony in this case, that he was not in his room at any time during his sickness, until the night he died? Why did she deny that he had plundered her, when not only her acknowledgments to Mrs. Smith, and the admissions in her letters, but her subsequent confessions to Mr. M’Ilvaine, conclusively prove that she had been most basely robbed and defrauded of her property? Why did she say, that she could not believe he was an impostor, when she had been furnished by Mr. Watkinson with the strongest evidence of his impositions and his villainy, and had been informed that the consul also believed him to be an impostor? Had she received any intelligence which could have induced her to change this opinion? Yes, say her counsel, the proof that he had been slandered and traduced was furnished by Mina himself in the private interview which Mrs. Smith relates took place between them, when she ordered him from the house, and he requested an opportunity to communicate confidentially with her. Why did she decline laying this proof before her sister, when asked by her to do so? Gentlemen, the reason is plain. The charm by which he effected this sudden change in her opinion of him, was the bloody deed which bound them together. He told her of her guilt—of her husband’s murder, and then dared her, as she valued her character, nay, her life, to drive him from her door or to treat him with disrespect. It was this community of crime which wrought the change, and induced her to tell Mrs. Green, upon her return to the room, “*Sister, Lino is not an impostor, he is a clever fellow.*” But this is not all; why did she refuse to inform Mr. M’Ilvaine where Mina had gone, when she was particularly called upon to do so; and after the most convincing proofs had been given her of his vile impositions? Why not aid in bringing to punishment the murderer of her husband? She certainly knew where he was, for she had given him letters of introduction to her relatives in Massachusetts. She, however, did not give Mr. M’Ilvaine any satisfaction, until an intimation had been made to Mr. Campbell, her attorney, that Mina had been arrested in Boston. It was then, and only then, and merely for the purpose of avoiding an immediate arrest, that she manifested any disposition to place in the possession of Mr. M’Ilvaine the evidences of the frauds committed by Mina. The conduct of the Recorder to this miserable woman, during the several interviews which he had with her, was in a high degree honourable. But notwithstanding this, even he has not escaped the censure of the counsel. Mr. M’Ilvaine did no more in this business than what was strictly his duty. He had, for the time being, the direction of the police of the city; and for the prompt and active measures which were adopted, in ferreting out this deed of death, he is entitled to the thanks of every individual who has any regard for the safety and lives of his fellow beings.

Was her conduct at any time after the suspicion had been whispered that her husband was poisoned, such as would have been exhibited by an innocent person? The request which she made of Mrs. Smith, that she would permit one of her daughters to borrow a newspaper in her name—calling up Mrs. Hitchbourn at a late hour in the night, wishing to know whether Mr. M’Ilvaine and Reeside had been there, and desiring to loan the newspapers for the preceding week—certainly was not the conduct of a person who felt no consciousness of guilt. But I will not trespass on your time by adverting to the numerous circumstances indicative of her extreme uneasiness of mind, and which cannot be accounted for upon any supposition of her innocence.

Neither was her flying from the county, the day but one after her last interview with Mr. M’Ilvaine, under the pretext of attending to some business, and eventually hastening to a remote section of the Union to avoid the pursuit of the officers of justice, the course which would have been pursued by an innocent individual. If innocent, she would have repelled with scorn and indignation so foul and so treacherous a charge. She would have eagerly sought for an investigation; she would have felt, that it was due, not only to public justice, but to herself, to her children, and to her departed husband, that the stain should be wiped from her character, and that a jury of her country should pronounce her triumphant acquittal. No ordinary motive could indeed have induced her to desert her family of young and helpless children. It was the fear of an arrest—of a conviction of the horrid crime, for which she is now upon her trial, that constituted the reason for her taking this step.

One word as to the evidence in support of her character. Nearly all the witnesses who have testified in its favour, have scarcely had any knowledge of her since she removed from the city. Few, even of these have had, at any time, an intimate acquaintance with her, but have known her merely as the instructress of children. I care not, however, how intimately they may have known her, or how strongly they may have borne testimony in her favour. The evidence of Mr. Blaney has destroyed all these testimonials of good character. He tells you, that he has known Mrs. Chapman since 1818, and that he heard nothing disreputable of her until 1829, when he became connected with the police of the city, and discovered that her police character was bad. Since that period he does not consider that she has possessed a good character. The explanation which he gave of the term *police character* was, that if he found stolen goods, or if he arrested counterfeiters in a house, he would say that the proprietor of such house had not a good police character. Whether or not he had ever found either stolen goods or counterfeiters in Mrs. Chapman's house, was a fact which the law would not permit him to prove, but which you have the right to infer from his evidence. Actions, however, speak a language not easily misunderstood; and no one can have listened to the details presented by the witnesses in this case, without being satisfied of her infamy and her depravity.

I have now, Gentlemen, finished my review of the evidence. I have endeavoured to satisfy you, that the deceased died of poison—that he was hated and detested by his wife, who had contracted a guilty passion for the Spaniard Mina, and that the thirst for gold, together with this unholy love, constituted the animating principle which quickened into life the serpent that has struck its “venom tooth” to the heart which had so fondly and so confidingly cherished it. I am willing to reject all the other evidence, and to rest the case upon the proof of the illicit intercourse—the arrangements which were made to go to Mexico—the purchase of the arsenic by Mina on the 16th of June—the sickness of Mr. Chapman on the 17th—the marriage on the 5th of July following with the person who had thus purchased the poison—and on the proof of the sudden flight of the prisoner, upon the first whisperings of suspicion. If these circumstances alone be not sufficient to satisfy you of her guilt, I tremble for the security of our lives, and for the safety of the community. Be not deceived by the supposition that Mina will be convicted, and that the sacrifice of his life will be a sufficient expiatory offering to the violated laws of the Commonwealth. The conviction of Mina depends, in a great measure, upon the verdict which you may render in this case. It is indeed extremely doubtful, from the evidence now in our possession, whether Mina be not merely an accessory to this murderous deed; and if so, he never can be convicted until Mrs. Chapman, the principal, has been found guilty. The only question, however, for your consideration, is, whether the defendant, now upon her trial, has committed the crime for which she stands indicted. You violate your oaths the moment, that you suffer yourselves to be operated upon by the consequences of your verdict, or by any of the affecting circumstances which the eloquence of the prisoner's counsel have so vividly pourtrayed—You may feel for these little children, whose father is murdered, and whose mother's life you are called upon to sacrifice—Nay, you may even commiserate the awful situation of the wretched and unfortunate prisoner herself—but you must be governed in your decision by the law and the facts, as they have been proved; and if there be any thing in the case which should prevent the sentence from being carried into execution, a recommendation to mercy from the Jury who convict, will always be received by the executive with respect, and be entitled to the highest consideration.

Remember, that it requires no stronger evidence to convict of an offence, which is capitally punished, than it does where the penalty of the crime is merely an imprisonment for a term of years—You must be equally satisfied in the one case as in the other. If, therefore, you should deem the evidence, which we have laid before you, sufficient to convict her of an offence not capital, you are bound by the affirmations which you have taken—by your duty to the government which exercises its fostering and parental care over each one of us—and by every law both human and divine—to render in this case a verdict of guilty. As you regard the safety of your own offspring—as you value the security of civil government, pause, I beseech you, ere you suffer your minds to be influenced by any doubts which you may entertain as to the propriety of capital punishment. The law of your Creator tells you, that “ye shall take no satisfaction for the life of a murderer, who is guilty of death, but

he shall surely be put to death—for the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it." In this case it is the blood of a husband—of a father—which has been shed—and shed too under circumstances so appalling and so unnatural! She in whom the trust was greatest, has become the assassinating wife, and the destroyer of her children's father. And what benefit has she derived? Has she obtained wealth, or rank, or power, or happiness? No, Gentlemen—but she has become the bride of a convicted felon, an outcast of society, and the curse of his race—She has gained a niche in the temple of infamy—She has inscribed her name upon the darkest page of guilt which the volume of man's crime unfolds—She has become not only the outcast of virtue, of peace, and of fame, but whatever may be your verdict, she will be the shame of her children, and her children's children, in each succeeding generation, until oblivion shall have wiped her name from the scroll of time.

I commit the case to your hands, confident that you will render such a verdict, as the public justice of the country may require.

Judge Fox charged the jury as follows:

Gentlemen of the Jury,

If, from any cause, even the slightest prejudice existed in your minds against the prisoner at the bar before the solemn duty which you are now performing was imposed upon you, I am sure that you have divested yourselves wholly of it, and that you are prepared to investigate and determine the cause upon the evidence before you.

It did not need the exhibition of her poor little children to awaken our attention to the cause, or excite our compassion for the situation of the prisoner. The facts which are proved, and which must govern the decision, are of a character so extraordinary, as necessarily to arouse our minds to the keenest regard to the deductions to be drawn from them—and whether the miserable state to which she is now reduced be the offspring of her follies, as she herself alleges, or of the most shocking of all crimes, as is the allegation of the prosecution, it is impossible to regard her terrible condition without deep commiseration. But for us this is no question of feeling. A duty is prescribed by the law, and we are not at liberty to indulge any sentiment inconsistent with its strict performance. Let us then seriously incline our minds to the most careful investigation of the grave matters in proof before us, that we may be enabled conscientiously to perform the solemn duties enjoined upon us.

But, although we may not suffer sentiments of mere compassion for the prisoner at all to influence us in our examination of the cause, yet we are bound to approach it with hearts mercifully inclined, because, in a very important sense, mercy is a part of the law. You must start with the *legal* presumption that the prisoner is innocent, and that presumption must continue until her guilt is satisfactorily *proved*. This is the *legal* right of the prisoner. It depends not on the circumstances of any particular case, but is the common right of every one accused of a crime. The law covers the prisoner all over with an armour, that can only be pierced by proof of guilt. It matters nothing, therefore, what rumours you may have heard, what publications you may have read, what suspicions you have entertained, or even what opinions you may have formed, in relation to the prisoner, before you were sworn in the cause.

The law declares her innocent, unless the proof you have heard on her trial satisfies you of her guilt.

The mild spirit of our institutions has abolished capital punishments in every case except that of wilful, deliberate, and premeditated murder. The Commonwealth does not seek blood. She unwillingly receives the victim from the hands of justice, and, when the sacrifice is demanded, the whole community is horror-struck. There is not much danger, therefore, in Pennsylvania, of unjustifiable convictions in capital cases. Indeed the belief is, that even where the facts demand it, it is almost impossible to procure a capital conviction. Yet, I will say, I have never known a verdict of acquittal which I did not think justified by the evidence, although I may have believed that it would have warranted conviction.

Much has been said upon the evidence in this cause, as being presumptive, and not direct or positive; and many cases have been read and cited, showing the conviction and execution of persons in England of capital felonies, whose innocence afterwards was made apparent. These arguments, and these cases, only prove, that all human evidence, whatever be its character, positive or presumptive, like every thing that partakes of mortality, is fallible. Infallibility belongs to Omnipotence alone. We must use human evidence for the purpose of arriving at any conclusion whatever, respecting a question of fact. If the mind is fully satisfied, we must act upon such conviction, although, from the uncertainty of all mortal affairs, mistake may be *possible*; otherwise the business of the world must stand still. The mind may be as completely convinced by presumptive as by positive evidence, and possibly may not arrive at the truth from either. Many cases might be supposed in which presumptive evidence would be more satisfactory than some degrees of positive; for there are as many degrees of positive evidence, as there are shades of character among mankind. Suppose two witnesses were to charge a man with murder, and swear positively that they saw him commit it. This would be positive evidence. Suppose, in his defence, he should prove that these witnesses were so infamous, that no reliance could be placed upon their oaths—that he himself was a man of the most upright character—that he had no reason whatever to destroy the person murdered, but that every motive of feeling and interest would probably induce him to preserve his life. Suppose it to be further apparent, that the witnesses themselves would derive great benefit from the death of the person murdered, and from that of the person they had charged—that there were many circumstances to induce strong suspicions that they were the real murderers. This defence would be presumptive evidence, but it is manifest that it would overturn that which was positive. The true question therefore is not what is the kind of evidence in this cause, but it is what is the *result* of it in your minds. If it has failed to *satisfy* you of the guilt of the prisoner—if your minds are not *convinced*—if they vacillate and remain *in doubt* as to this question, you must acquit her, be the character of the evidence what it may, positive or presumptive, because the law regards her as innocent, so long as you have reasonable doubt of her guilt. But if the result of the whole evidence in the cause *satisfies* you that she is guilty—if you are *convinced* of that fact—if no reasonable doubt remains upon your mind, it is imperatively your duty to convict, even if the character of the evidence be *wholly presumptive*. Such is the law.

In capital cases, the counsel for the prisoner frequently deem it their duty, not only to scan the evidence with the closest scrutiny, but also to comment upon the character, the motives, and the conduct, of the witnesses, with a freedom that would not be tolerated, under similar circumstances, if it were attempted on the part of the prosecution. So far as I am able to judge, we may place great confidence in the integrity of every witness in this cause. I have seen neither disposition nor motive for any one to speak falsely, or to conceal the truth, excepting only in the poor little daughter of the prisoner. She, no doubt, had the strongest of all possible feeling, but who that heard and saw her, can doubt her innocence of any intentional misstatement or concealment.

Ellen Shaw and Fanning have been assailed with much severity, but, as it strikes me, entirely without reason. Why should they testify falsely against the prisoner? The motives attributed to them by the counsel, even if they exist, are wholly inadequate to impel them to such horrible perjury.

Even those gentlemen, eminent in science, who, from the most public spirited motives, have afforded the Commonwealth their efficient aid in the investigation of this important question, have not escaped animadversion. It is essential to the public interest that they should know that a due sense is entertained of their services. They have sacrificed much valuable time, and much of comfort, with the most honourable disinterestedness, and, if they are to suffer, in the slightest degree, in reputation, how can they, or other gentlemen of similar attainments, be asked to render us assistance hereafter. We have thought it proper, therefore, that the acknowledgments of the County should be thus publicly tendered to them for the important services rendered to us in this investigation.

The charge against the prisoner is *murder by poison*. Therefore there can be no question as to the *grade* of murder, whether of the first or second degree, inasmuch as by the law of Pennsylvania all murder perpetrated by *means of poison*, is murder in the first degree.

The questions for consideration are two.

1. Did Mr. Chapman die by poison?

2. If he did, was Mrs. Chapman a voluntary agent in thus procuring his death?

As to the first question, there is much evidence. Indeed, all the evidence in the cause may be said to have a material bearing upon it, because all that may go to show that Mrs. Chapman procured his death, will serve to corroborate any other that will show his death by poison.

The first and most important evidence of the death by poison, and without which the prosecution could not be for a moment sustained, is that derived from the chemical examinations, and the opinions of the chemists. Dr. Mitchell and Mr. Clemson, the gentlemen who made these examinations, have given us, in detail, their mode of proceeding, and their opinions as to the results. It is obviously of great moment, that we should be able implicitly to rely upon their integrity and skill. Who and what are they? Dr. Mitchell is known in Philadelphia, not only as a physician of great eminence, but as a professor of chemistry, whose attainments, in this science, are second, perhaps, to none, even in that great city, where chemical knowledge is in advance of any other place on this side of the Atlantic. His skill, his estimable character as a man, and the great caution he exhibited in giving his evidence, will authorize you to place the most unlimited confidence, not only in the facts he has proved, but also in the opinions he has given.

Mr. Clemson is comparatively a young man, but his opportunities of acquiring chemical knowledge have been very rare, and seem to have been fully improved. After studying the science several years in this country, he went to France, and has been assiduously employed, for about five years, in the practical laboratories of several of the most eminent chemists of the age. It is true, as is said by the defendant's counsel, he is mercurial, and he did not evince sufficient caution in giving his evidence. But his integrity of purpose has been most apparent, and his skill is unquestionable.

These are the gentlemen who were selected to make the examination of Mr. Chapman's stomach. Upon their evidence, as I have said, this part of the cause, at least, mainly depends.

What did they do? Do not let us be deterred from a strict examination of this part of the case by the difficulties which it has been suggested we labour under from the want of chemical knowledge. The question now is, did Dr. Mitchell and Mr. Clemson detect arsenic in the stomach of Mr. Chapman? This, like any other fact, when questioned, must be proved by evidence. Now, what has been detailed to us for the purpose of supporting the affirmative of this proposition.

The stomach, as taken from the body by Dr. Hopkinson, was subjected to a chemical process whereby all animal matter was destroyed. This mass was then reduced by evaporation, and what remained was divided into three parts, and these were put into three several glass tubes. The object of this was, to test each of these parts, and thus have the opportunity of several experiments.

The flame of a spirit lamp was applied to the end of the tube in which the matter was, and if arsenic were present, it was expected to be detected in two ways.

1. By reduction (as it is called) of the metal. That is, that the metal would be thrown off in a gaseous form, and be condensed on a superior part of the tube.

2. By the odour said to be peculiar to arsenic. This is evidence of the presence of the metal, because caused by the metal itself. Clearly proved to exist, the presence of the metal is taken for granted by chemists for all ordinary purposes.

It is certain that no metal was *reduced*—that is, no metal was visible to the eye in metallic form. But it by no means follows that you may not believe that the metal was present, I mean even by chemical proof. Indeed, many cases might be supposed in which a jury would not be justified in rejecting chemical proof of the existence of arsenic, although the metal was not reduced. Suppose what are called the liquid tests were tried, and gave the characteristic appearances of arsenic, and, that the precipitate being subjected to the action of fire, gave out the odour, and no other test attempted, this would be strong evidence for the consideration of a jury, and might, or might not settle the question depending on the other circumstances of the case. It might not be as conclusive proof as if the metal had been made visible to the eye, but, as I have said, it would be evidence of the presence of arsenic on which a jury would be justified in acting.

Then, in this case, what degree of evidence has been obtained from the chemical

examinations, of the existence of arsenic in the stomach of Mr. Chapman? This is the true question.

The reduction of the metal was attempted, and the chemists *failed to effect it*. So far the presumption is, that no metal was present, and so far, I suppose the evidence conclusive, that so little arsenic was present, as that the liquid tests would not detect it, otherwise it would have been reduced; for, where these tests show arsenic, it may always be detected by reduction. So all agree.

The metal not being reduced, what is the next best evidence that arsenic was present. Is not the peculiar odour that evidence? From what I have learned in this cause, I suppose that it is. Formerly it was considered the best test, but as the science advanced, and the power of reduction was greatly extended, the authorities have discountenanced proof of this sort—Dr. Mitchell seems to think, unreasonably.

Then what evidence have we of the presence of the peculiar odour in this case?

The matter to be examined was, as I have said, divided into three parts, and placed in three several tubes. These were severally, at different times, subjected to the action of fire, and from each of them this peculiar odour of arsenic was given out. Dr. Mitchell and Mr. Clemson both swear that it was the odour of arsenic.

Dr. Mitchell says: "In conducting the experiment, and after these phenomena had been observed, the sealed end of the tube opened, under the action of the spirit lamp, when Mr. Clemson, who was holding it, turned round and said, 'Is any one subliming arsenic in the room?' The reply was, No. He then called me to examine what the odour in the tube was, and I distinctly recognised what I believe to be the smell of the fumes of arsenic. The tube was subsequently heated at the part where the shining black matter was, and as the tube was open at both ends, a current of air was passing through it, and the arsenical smell was perceptible at the upper end. The other tubes were subsequently at different times heated in the same manner, and (with the exception of the accidental breaking of the first tube) the result was the same."—"The arsenical odour is generally esteemed, by high authority on this subject, as a very imperfect test of the presence of arsenic; but as the objections to this test are several, and as it was important for the purposes of public justice that this case should be strictly examined, I tested one by one, experimentally, the objections. The first objection is, that the mixture of animal matter so covers, when it is volatilized along with arsenic, the odour of that metal, that it cannot be perceived. This objection does not apply in this case, inasmuch as it *was* perceived. Another objection is founded on the alleged similar odour of certain substances, phosphorus and its compounds, zinc, antimony, onions and garlic. The last of these could not, by any possibility, have been present in the matter that was sublimed by me. Antimony, zinc, and the phosphates, mixed with animal matter and charcoal, were tested in similar tubes, under like circumstances. These experiments were repeated again and again, in the absence of my colleague, Mr. Clemson, without being able to produce the arsenical odour, or any thing that I could mistake for it, unless I actually placed arsenic in the tube. Supposing myself liable to deception, because I knew what was actually in the tubes in all these experiments, I prepared a set of them containing these articles, phosphate of soda, kermes mineral, an antimonial, and some granulated zinc, and placed them while under treatment by a spirit lamp, and in succession, under the nose of Mr. Clemson, who was ignorant of the contents of the tubes. Among the tubes there was one prepared with arsenic in very small quantities. It was only when the tube containing arsenic was heated and placed under his nose that he said decidedly, 'that is arsenic.' He hesitated not a moment as to any of the tubes."—"Speaking from authority, I would say, that the chemist cannot speak positively of the presence of arsenic, without finding the metal."

Mr. Clemson says: "The matter contained in the bottom of the tube was so exposed to the lamp, as that the carbon of the lamp should act upon that portion of the arseniate of lime which had not been in contact with the carbon in powder. As I expected, we obtained an odour of arsenic. The second tube I exposed to the heat of the spirit lamp. I was expecting a ring, and the odour of arsenic struck me.—I looked round and asked if any one was burning arsenic. On examination I found that the end of the tube was broken, and the odour of arsenic still given out. I called Dr. Hopkinson, and Dr. Mitchell, and the servant, to smell this odour, and they all

agreed that it had the odour of arsenic. I know of no substance, which, in my opinion, has the same odour, or which resembles that of arsenic. It is stated, that there are certain substances which give off an odour resembling that of arsenic—certain vegetable substances, but here there were none. Phosphoretted hydrogen is said to have the odour. I have manipulated it, and never found the odour. I account for the smell by the action of the carbon in vapour from the lamp coming in contact with the arseniate of lime, not already decomposed. If, in the examination of any mineral substance, I had discovered the same results, I should have said there were traces of arsenic. I believe that was the odour of arsenic that I smelled."—"Authority goes to say that other substances than arsenic produce odours so like it that one may be deceived. A man can smell the shadow of a shade of arsenic. I cannot say what quantity will give the odour."—"I have never been deceived when I have found arsenic by the blow-pipe, in detecting it afterwards. It might have been arsenic, but not in sufficient quantity to be weighed, and then we apply the term, "traces of arsenic," in the description of the analysis of the mineral. It is the metallic substance that gives the odour."

This is the evidence of the existence of the peculiar odour of arsenic in the stomach of Mr. Chapman. You will observe, that here in searching for arsenic, by three several experiments, on different parts of the same matter, precisely the same result was produced, viz. the peculiar odour of the metal; of course the existence of the odour cannot admit of doubt.

Then taking the opinions of Dr. Mitchell and Mr. Clemson that no other matter was present that could have produced the same odour, you have the opinion of the chemists that arsenic was found in the stomach of Mr. Chapman. Unless these gentlemen have been deceived, under circumstances in which they seem to think deception almost impossible, arsenic was detected, and you as jurors will be justifiable in drawing that conclusion, and in acting upon it. Thus, if you make this deduction, you have the proof by chemical tests, and the opinions of the chemists that arsenic was in the stomach of Mr. Chapman in support of the position that he died by poison.

In support of this deduction, there is much corroborating evidence in the cause, a summary of which, I am about to present to you for consideration.

1. *The peculiar smell of the stomach*, proved by Dr. Hopkinson and Dr. Mitchell, and the extraordinary fact, that another stomach into which a small quantity of arsenic was placed, and remained a considerable time, threw off precisely the same unusual odour.

This, by itself, would weigh nothing, but as a coincidence, it is well worthy of consideration, the more especially as Christison, speaks of a peculiar odour from a body dead by arsenic.

2. *The preservation of the body*, and more especially, *the peculiar dryness of the small intestines*.

The soil in which the body was buried was very favourable for its preservation, but the fact, that it was in a remarkable state of preservation is certain.—Dr. Hopkinson says that the small intestines appeared, as he supposed they would if they had been *hung up to dry*. This extraordinary appearance alone, would be of little moment, but acquires some importance in connexion with the other facts in the cause.

3. The symptoms of the disease, and the opinions of the attending physicians.

His attending physicians were astonished at the fatal result of his disease. Dr. Phillips says, that, at the time, he was not satisfied as to the cause of his death, and that he could not account for it; and Dr. Knight speaks to the same purport.

Cholera morbus did not satisfactorily account to them for his death, although no suspicion of *foul play* then existed, yet the symptoms and death alone excited their astonishment, and neither are able to account for it.

The symptoms, although each one may be referable to natural causes and a death by cholera, all agree that the whole are such as probably would precede death by arsenic. Take the symptoms of such death as described by Dr. Togno, the medical witness of the defendant, and compare them with those which are proved to have existed in Mr. Chapman's case.

Dr. Togno, says the general symptoms of poisoning by arsenic, are "violent vomiting one, two, or more hours after taking the poison—a constriction of the throat, pain and burning in the stomach, great lassitude, disabling the patient almost from

moving after the vomiting has continued some time, thirst—purging follows. The circulation is slow, and participates in the general prostration of the system. Mr. Chapman had no symptom that a man would not have had who died by arsenic.

4. The opinions of medical men founded upon the *post mortem* examination, and the description they have had of the symptoms.

Dr. Hopkinson says, that death was caused by the action of some violent substance upon the stomach.

Dr. Coates says, "from what I saw, and the evidence of Drs. Phillips, Knight, and Hopkinson, I am of opinion that Mr. Chapman died by the action of some corrosive poison, or irritant poison, probably of an arsenical character."

Dr. Mitchell, after giving his reasons in detail, says, "I am unable, after a careful and considerate view of the whole ground, to resist the conclusion, that Wm. Chapman died because of the presence of arsenic in his stomach."

Thus far I have confined my examination to the chemical proof and medical opinions as to the death by poison, without regard to the other proof in the cause. If you place full reliance upon the integrity and skill of the witnesses, you will be justifiable in considering their opinions as proof of the facts upon which they are given.

But in corroboration of, and to be taken in connexion with the foregoing, there is other evidence of a very important character.

On the 16th of June, Mina bought poison, and that poison arsenic, upon what, so far as appears, was a false pretence.

On the 17th of June, Mr. Chapman was taken sick with his mortal disease, now pronounced by the physicians, *to be a death by poison*.

On the 20th, and 21st of June, several chickens, and a large number of ducks coming out of the lot of Mr. Chapman, died in an extraordinary manner. *The ducks at the time believed to die of poison.* Now, although ducks are subject to an acute disease, that carries them off suddenly and in great numbers, yet these facts, under the circumstances, are well worthy of consideration.

On Sunday, the 19th, Mr. Chapman was seen by Dr. Phillips. He had recovered from his illness, and was in no dangerous, or even uncomfortable situation. He continued thus till Monday afternoon, the 20th—*then he had all the symptoms of poison by arsenic.*

I have now presented a summary of the evidence of the death by poison, independently of the proof which has been given, showing the agency of the prisoner, in procuring his death. But there is much evidence as to this latter question, which is applicable to the former. Indeed, all evidence that will support the position that she was his murderer, will corroborate that which is given to prove that he died by arsenic, for it is certain, that if murdered at all, it was by arsenic. You will, therefore, still keep your attention awake to the applicability of the additional evidence, as well to the question of the death by poison as to that of her agency in procuring it.

2. Did Mrs. Chapman do the murder, or was she present aiding and abetting?

In presenting this part of the case to you, I at the same time think it my duty to make a point for the prisoner, not made by her counsel—probably because they did not think it prudent.

It is, that suppose Chapman was poisoned, and his wife in adulterous or criminal intercourse with his poisoner, her defence would be exceedingly difficult, even if innocent; for those things which might be evidence only of criminal passion, for the murderer, might be construed as evidence of participation in the murder. This, certainly, is a possible case. Therefore in examining the evidence, take the consideration I have presented, along with you, and if the facts and circumstances proved against her, can be accounted for on the supposition of criminal intercourse only without necessarily inferring the murder, you will put that merciful construction upon them.

Did Mina do the murder with her aid, or did she do it with his?

The first question that strikes the mind in the inquiry is, why should she do the murder? What motive could she have for destroying her husband?

The prosecution answer this question by saying, that she was infatuated by a guilty passion for Mina, and an avaricious longing after the boundless wealth of which she believed him possessed, and leagued with him to destroy her husband, for the purpose of unrestrained gratification.

This allegation it is for the prosecution to make out by the evidence. Let us examine it in detail. (The judge here recapitulated those parts of the evidence of Mary Palethorp, Ellen Shaw, Esther Bache, Ann Bantom, and Fanning, which go to show the improper intercourse between Mina and Mrs. Chapman, and the state of feeling between Mr. Chapman and Mina, and then continued.)

That the prisoner was most strangely infatuated with Mina from the commencement of their intercourse up to the time of their final separation, cannot be questioned. If the testimony of Ellen Shaw is believed, acts utterly inconsistent with innocence are fully made out. If the prisoner did, at different times, kiss Mina, and suffer him to kiss her, and suffer him to rest in her arms singing love songs, it is very strong evidence of criminal intercourse between them. Taking the difference of their ages, the fact that she was a married woman, her infatuation, and the hasty and indecent marriage, ten days after her husband's death, in connexion with those facts proved by Ellen Shaw, and the probability that they were living in adulterous intercourse is very great. That Mr. Chapman believed it is certain, if you credit Fanning or Ellen Shaw; yet, however improper or criminal their conduct towards each other may have been, there is no positive proof of adultery, nor of any thing from which it must *necessarily* be inferred.

It is true that she seems to have had views of going to Mexico with Mina—that she considered her husband in the way of her ambitious or avaricious aspirings; and that she wished him "gone." These things add much weight to the other evidence; and taking the whole together, it is for you to say whether you can draw the conclusion, that adulterous intercourse existed between them. If it did, that fact will be of great weight in the question whether she is guilty of the murder, for it would, with the other facts proved, be very strong evidence of a motive for the commission of the crime.

Supposing her to be an adulteress, or given up wholly to her infatuation, those facts which otherwise weigh little against her may have very great power.

On the 16th of June she was in the city with Mina, *when he purchased the arsenic*. They returned home, and *on the next day*, Mr. Chapman was taken ill.

On the 19th, when Dr. Phillips did not believe he was seriously ill, she wrote a note to Mr. Sheetz, the pastor of All Saints church, *requiring prayers to be put up for her husband, as if he was in extremity*.

On the same day she calls Mr. Vandegrift to go to Mr. Chapman to receive directions that *J. W. Chapman's family were not to be invited to his funeral*.

On the 19th, Dr. Phillips, believing Mr. Chapman's indisposition to be very slight, ordered chicken soup. This was made on Monday. Ann Bantom saw it made. It was taken by Mrs. Chapman into the parlour where Mina was.

Here it has been supposed that the poison was put into the bowl of soup—but that cannot be. It seems to be impossible that Mrs. Chapman should have put poison into this, to have poisoned her husband with it, and then have placed it on the kitchen table; and suffered it to remain there several hours, exposed to the chance of being eaten by her servants, who dined at the table; or by her own children, whose dining room adjoined the kitchen.

If Mr. Chapman was poisoned, as heretofore I have supposed, I look in vain for evidence to show distinctly *how* he was poisoned. Was the arsenic in the soup?—He was taken much worse directly after he took it. If the poison was in it at all it probably must have been in a portion taken from the bowl, but of this there is no evidence. If, however, the evidence is clear that he was poisoned, his being taken ill directly after eating the soup is strong evidence of the time and manner. From this time his illness run a rapid course. He suffered much and requested Fanning to stay with him. Mrs. C. did not go into his room but once during the evening, and, although much pressed by Fanning to do so, she refused to send for a physician.

If he were poisoned, the evidence is almost irresistible that the deed was done about the time he took the soup. Who could then have poisoned him?—Had his wife a motive sufficient to move her to the commission of so terrible a crime, as well as what she might have deemed, a safe opportunity to perpetrate it. I have already adverted to the evidence which precedes his illness, and some facts of no little weight remain to be noticed, which occurred after his decease.

On the 5th of July she is married to Mina in the City of New York. *They separate on the same day*. She goes to Schenectady, he to Andalusia. On the evening of that day she writes him a letter evincing all the extravagance, considering her

age and his youth, of a most ridiculous passion. (Letter of 5th July read by the court.) Now when was the courtship of which this marriage was the result, *ten days after her husband's death*. Was it before his death or after it? In either case, what conclusion ought we to draw?

On 31st July she writes him another letter of a very different character. The same infatuation still seems to exist, but all levity is gone. Retribution for her folly or her crime has already overtaken her, and the deep feeling, and, apparently, deeper meaning with which, in the bitterness of her heart she says, "*Believe me, Lino, that God will not suffer either you or me to be happy on this side of the grave*," as well as this whole letter is worthy your most serious attention. It was written after she was fully apprized that Mina was a villain, and it was manifestly intended for no eye but his own. Take in connexion with this letter the extraordinary and mysterious power that he exercised over her after it was sent as proved by her declarations to Ann Smith. She, in the presence of her sister, charged him with some of his villainies, and declared her wish to be separated. He apparently consented, but required a *secret* conference before he went. She granted it to him, and notwithstanding the cruelties which he had practised upon her and her daughters, so strongly complained of in the letter, notwithstanding she must have known he was every way a villain, she returns to her sister, and says, "*Sister, Lino is not an impostor, he is a clever fellow.*"

On the 17th of September, she herself laid before Mr. M'Ilvaine, the most conclusive evidence that Mina was an impostor, and guilty of a forgery. On that same evening, a publication in the National Gazette, in Philadelphia, alluded to her as a participator in the crime of poisoning her husband.

On the 19th of September, *she flies*, notwithstanding she was warned by Mrs Smith, the day before, that it would be evidence against her. Why did she fly? Was it to escape the punishment due to crime, or, as she alleges, the timidity of an innocent woman, who, perceiving that appearances were against her, had not resolution to face them? Of this, you are the judges. Flight may be very strong evidence of guilt, or it may weigh nothing according to the circumstances under which it takes place. The legal presumption from flight is against the prisoner, and it lies upon her to rebut it.

Much evidence has been given in support of the prisoner's character. A number of very respectable witnesses have fully proved, that, for a number of years, she was much respected, particularly by those whose children had been placed at her school. But all this is much weakened, if not wholly destroyed, by the evidence of Blayney, a high constable of Philadelphia, that from the year 1829, her character has been bad, *gradually getting worse*, and that his information is derived from the police of the city.

The evidence of the prisoner's daughter, Lucretia Chapman, has been relied upon, to show that there could have been no poison in the bowl of soup. Without her evidence, I think such would be the presumption, and she is of course strongly corroborated.

I now, Gentlemen, leave this case with you for your decision. If you are satisfied that William Chapman was poisoned, and that his wife was the voluntary agent, or was present, aiding in poisoning him, the law draws the inference that she is guilty of murder in the first degree, and it is your duty so to pronounce. But, if you are not satisfied with the proof, if upon the evidence a reasonable doubt exists, whether she be guilty or not, the law calls upon you to say not guilty.

At nine o'clock, on Saturday night, the jury retired, for final deliberation. At eleven o'clock, the ringing of the Court bell announced that they had agreed upon their verdict, which was soon after rendered and recorded in open Court—

NOT GUILTY.

The defendant was then discharged by proclamation.

SUPPLEMENT
TO THE
TRIAL OF MRS. CHAPMAN,
PUBLISHED BY
George W. Mentz & Son, Philadelphia.

TRIAL
OF
LINO AMALIO ESPOS Y MINA,

FOR THE
MURDER OF WILLIAM CHAPMAN.

Court of Oyer and Terminer, holden at Doylestown, for the County of Bucks, April Sessions, 1832.

[F] In the course of this trial, now just terminated, several important matters of evidence were disclosed, on the part of the prosecution. The result has been, a conviction of murder in the first degree. Under such circumstances, the Publishers deem it their imperative duty to make known those additional proofs which have led to a conclusion so fatally different from that of the former Trial.

On Wednesday morning, (April 25th,) at nine o'clock, Judges FOX, WATTS, and LONG, took their seats upon the bench, and soon after, the prisoner was brought up, and placed at the bar.

On the part of the Commonwealth there appeared Messrs. ROSS (Deputy Attorney General) and REED. On the part of the prisoner, Messrs. RUSH and McDOWELL.

The Clerk of the Court proceeded to ballot for a jury. The first person called was Capt. JOHN ROBBARTS, who was not challenged by the prisoner.

Mr. REED rose, and asked the Court if the Commonwealth's counsel were to understand that the Judges still adhered to their former decision, respecting the interrogatories which, at the last trial, it was proposed to put to each juror? (See page 13.) He proceeded to say, that his Honour the President Judge had, on that occasion, taken it for granted that the Supreme Court had not settled the question, inasmuch as there was no authenticated report of that decision before this Court. He had, therefore, since the trial of Mrs. Chapman, applied personally to Chief Justice Gibson, with a view to ascertain the fact, and obtain from him a written evidence of it. The Chief Justice had fully assured him that such was the decision, and that he would furnish him with a certificate to that effect. Up to the present time, however, no such certificate had been received by either of the counsel for the Commonwealth, and he therefore asked whether their Honours had, themselves, received any information upon the subject.

Judge FOX said, he had, at the last Circuit Court for this County, conversed particularly with Judge ROGERS, upon the subject, and had ascertained from him that such had been the decision of Judges GIBSON and KENNEDY, and that it was the unanimous decision of the Supreme Court. He therefore yielded to the authority, and decided that the question should be put. Which was accordingly done to each Juror as he came up to be sworn or affirmed.

The following named Jurors were severally sworn or affirmed:

John Robbarts, <i>sworn.</i>	George Trauger, <i>sworn.</i>
Jacob Stover, <i>affirmed.</i>	Jonathan Ely, <i>affirmed.</i>
John Webster, <i>affirmed.</i>	John T. Neely, <i>sworn.</i>
Amos Torbert, <i>sworn.</i>	John Headly, <i>affirmed.</i>
Henry Baringer, <i>affirmed.</i>	John Beatty, <i>sworn.</i>
Clayton N. Richardson, <i>affirmed.</i>	Ezra Buckman, <i>affirmed.</i>

The following evidence was adduced on the part of the Commonwealth, in addition to that already given in the course of the former trial:

DR. PHILLIPS.—From the symptoms I observed myself, I am at a loss to say what was the cause of his death.

So far as I recollect the symptoms were not such as would probably have arisen from arsenic; at any rate as easily reconciled upon that cause as any other. If, upon a post mortem examination, arsenic had been found, I should have considered the symptoms reconcileable. If a small quantity of arsenic had been taken the day before, the sickness would have probably continued.—There was a mystery over the whole occurrence to me.—I was not able to reconcile the symptoms with those of cholera morbus, and therefore I inquired of Mrs. C., at the time, in order to discover the cause.—I have often been puzzled with cases in the course of my practice.—Cholera morbus, when fatal, very frequently terminates in twenty-four or thirty-six hours.

DR. KNIGHT.—I saw Mina in the room on Wednesday night, and, I think, on Tuesday.—When I was called upon to prescribe for Mina, I found his pulse natural—nothing out of order—my opinion was, that he had no fits.

Cross-examined.—I visited him (Mr. C.) three, four, or five times on Wednesday. My first visit was on Tuesday evening.—Persons having fits generally labour under a disturbance of the system, the pulse being either excited or depressed—there was nothing of this in Mina. At his request, (I believe it was,) I bled him.—I should bleed a person if he asked me to do so, whether his pulse required it or not. My opinion at that time was, that he (Mr. C.) died of cholera morbus.—Considering nothing but the symptoms that were present, I do not feel prepared, at this time, to say what was the cause of his death.—There was no other case of cholera morbus in the neighbourhood.

BENJAMIN BOUTCHER.—His (Mr. C.'s) mouth looked purpled. His body seemed remarkably stiff—this was not more than one hour after his death.—I had laid out other bodies—I never observed such stiffness before.

(Error in page 35, 3d line from top—for Mrs. Chapman read Mr. Chapman.)

MRS. ESTHER BACHE.—I never saw Mina scowl on any other occasion than on that at the breakfast table.

MR. RUSH objects to receiving declarations of Mrs. C. in Ann Bantom's testimony. The declarations of co-defendants against each other cannot be given in evidence. *1st Phillips, 76.*

Court.—The only difficulty now is, that which arises from the fact that Mrs. C. has been tried and acquitted.

MR. RUSH.—Then we are upon *terra incognita*—the point is a new one.—They are not co-defendants, because Mrs. C. has been acquitted. They are not now jointly charged.—Community of purpose no longer exists now. *1 Chitty, C. L. 566.*

MR. ROSS.—This was an indictment which involved a conspiracy. It does not affect the admissibility of this evidence, that one of the conspirators has been acquitted—and in order to prove this I hold in my hand an authority, *1 East's Cr. L. 351*,—to show that a person charged as aiding and abetting, may be convicted, even if the principal has been acquitted. The words in the indictment are the same—“aiding and abetting.” *2d Starkie, 403. 2d Russell, 570.*

This is the declaration of Mrs. C. accompanying the commission of the murder, and it is for the Court to say whether there has been such a community of action proved as to render this declaration admissible.

COURT.—This is not entirely free from difficulty. There is a change of circumstances since her acquittal. Before her acquittal, she could not have been compelled to testify; now she might be compelled to do so (putting aside the fact of her marriage with Mina). That being the case, I think the declarations cannot be given. I have examined into it since last Court, knowing it was an important question, and this is the best judgment I can form upon the subject, although I must say it is not entirely free from doubt.

FREDERICK FRITZ sworn for Commonwealth.

I came on from Boston in company with Mr. Blayne at the time he was bringing Mina. I had some conversation with Mina respecting his marrying Mrs. Chapman, &c. I asked him whether he was married to her. He said he had married her in New-York. He told me he had had connexion with her before, during the lifetime of her husband. He said she came to him, and was in his room very often. That is all that I know.

Not cross-examined.

WILLIS H. BLAYNEY sworn for Commonwealth.

I went to Boston after Mina. The first time I saw Mina, was in the jailor's office in Boston. He was called up to state what belonged to him in his trunks: I wished to bring his goods along. He did so, and I gave a receipt for them, before starting. We then proceeded, at 5 o'clock in the morning, to Providence, in the stage, and from that on home. On board the steamboat, after dinner, he was taken with a fit. A physician being aboard, I got him to see to it. The fit passed off after a short time, and the physician said he did not know what to make of it.

Some time in the afternoon, he wished to make some confidential communications to me. I asked him on what subject? He said on the subject of Mr. and Mrs. Chapman. I told him I did not wish to hear any thing—that he had better keep what he had to himself. A short time after, I saw him in conversation with Mr. Fritz. After they had parted, Mr. Fritz related the same statement to me, that he has just made in Court. He (Mina) then came to me, said he wished to talk with me, and said Mrs. C. had come to him, and that he had had connexion with her some few days previous to Mr. Chapman's death. We then parted. He (Mina) was taken very sick shortly after, vomiting a great deal, (we were then coming down the Sound) and continued so all night. After breakfast next morning, as we were getting in to New York, he took me privately aft the boat, and stated that he wished to have a conversation with me in private: he wished nobody else to hear. I told him he had intimated that two or three times to me; that if he would answer me two questions, I would then listen to him. They were these: I asked him, whether he had ever been in the piratical service—or whether he had ever been convicted or in jail? He said he had not been in either. I told him he was very foolish for talking in the manner which he had, on board the boat, to strangers. What was stated after that, I beg the Court will not press me to divulge—and which I cannot divulge, consistently with my duty as a police officer.

I told him, if he would answer me those two questions, that nothing of it should appear against him on his trial, if he was indicted for the murder of Chapman. I told him nothing else.

Mr. Rush objected to the confession being given in evidence, it having been made under the promise of favour. *1st Phillips*, 86.

Mr. Reed admitted the principle contended for in its fullest extent, but denied its affecting the evidence now offered. This is not a confession of guilt. It is a statement made by Mina with a view of shielding himself. There was no admission of his having participated in the murder.

COURT.—Any declaration which a man makes, drawn from him by offer of favour or by threats, no matter to what extent it goes, cannot be given in evidence. This point was recently decided by myself in a case of arson, in Montgomery County. The question therefore now is, whether this promise of Mr. Blayney comes within the rule of law.

Mr. McDowell read from *2 Russell*, 643.

Mr. Rush addressed the Court.

The Court here asked Mr. Blayney to repeat his promise, which he did.

COURT were unanimously of opinion, that this was not a confession drawn from the prisoner upon promise of favour.

Mr. Blayney declined making any further statement, until peremptorily directed to do so by the Court. He then proceeded, referring to a memorandum taken by him at the time—I asked Mina whether he had a medicine chest. He said he had, and had left it in Boston jail. I asked him whether he had arsenic in it. He said he had medicine or stuff in it that would kill people and kill rats. I asked him whether he gave any of the medicine to Chapman. (I would just state that he first told me a sort of story which I could not understand, and then I put the above questions to him, and he answered them as above.) In reply to the last question he said—No, he was innocent. He said that when the woman brought up the bowl of soup, Mrs. Chapman take the soup from the woman—she then put the physic in the soup. I asked him, “Did you see the physic?” He said, “No—she take it from my bottles. After Mr. Chapman take the soup, he get very bad and die. Mrs. Chapman then come, kiss and hug me, and say, Lino, I want you to marry me. I say, No, not till I ask my father. She say, Oh yes, I love you so much. Then I say, Well, when Mr. Chapman get bury, then I will marry you. Then she

say, We get marry in New York." This was the first mention I had ever heard about the soup.

Cross-examined by Rush.

I could not understand him for the first day scarcely—I was obliged very often to make him repeat and explain. I think this was in September.

DR. HOPKINSON.

The inflammation presented the appearance of such an one as would have been caused by some active corrosive substance or poison. My reasons are derived from its intensity, and from its stopping at the communication with the intestine—but on the other hand, extending into the œsophagus.

Cross-examined.

Inflammation of the stomach is found in fevers, in apoplexy, and in cholera morbus. A violent case of poison might resemble a violent case of cholera morbus. In this case a high degree of inflammation extended all over the stomach, and into the œsophagus. I am not aware of having ever examined a body in which death was occasioned by cholera morbus.

Cholera morbus is very rarely fatal in this country. When it is, it usually terminates in from one to three days, or more.

The symptoms of cholera morbus are, first, a sickness or nausea, with some pain in the belly. This is followed by a vomiting, first, of the contents of the stomach, and then bile, which is also discharged per rectum. Cholera morbus is essentially a purging and vomiting of bilious matter. Sometimes the patient has great debility, weak pulse, and towards the end, cold extremities—those are the general symptoms. Chemical authorities differ in many points. I never before examined a body that had been buried. I should think a person might have died of cholera morbus, and the body present precisely the same appearances after death, as in the present case. Authorities are not agreed upon the point, that the reduction of the arsenic in metal, upon chemical analysis, is the only evidence of its presence that can be strictly relied upon.

By the Court. In the majority of cases of cholera morbus, inflammation is found in the intestines; though this is not invariable. I would not hesitate to say, from what I have heard of the symptoms, that Mr. C. could not have died of apoplexy.

MR. DURAND.

I have studied Chemistry, which is closely connected with my business. Arsenic has a distinctive odour. I do not think I could be mistaken in the odour of arsenic, unless the quantity were too small to produce a distinct odour. If an experienced chemist had detected the odour, I should for ordinary purposes have relied upon it as an evidence of the presence of arsenic. I think a well defined smell would be the best single evidence of the presence of arsenic. Recent authorities hold the same doctrine, as respects ordinary chemical pursuits.

Cross-examined.

The smell of arsenic resembles nothing so much as that of phosphorous acid. Garlic has not a smell like it. Zinc has a smell something similar, but not so near as phosphorus. Antimony has not a similar smell, except there be arsenic mingled with it, which is often the case, these metals being often found together in their native state. I think onions, after a chemical analysis, would not give out such a smell. I do not remember any authority who says it does. I have been taught chemistry. I am a practical chemist.

DR. COATES.

I have opened a number of bodies, after death by cholera morbus, two of which were adults. In both these cases the stomach was full and distended.

JAMES B. WOOD, sworn.

I reside at No. 24, Bank street, Philadelphia.—I keep a hotel.—Last July Mina called and asked if I wanted to buy a Dearborn wagon and horse—I said, no. He asked if I could sell them—I said, yes. He said a nobleman had left him some old-fashioned things, and he wanted to sell. He sent up in the afternoon. I tried to sell, but could'nt.—Told him so.—I said I would make an offer of forty dollars, and if he could do better he might. I went out of town and left the money. When I came home my young man gave me the receipt. Receipt dated 18th of July, 1831.

MR. M'ILVAINE, sworn.

I told Blayney I thought he had forgotten I had spoken to him of the poison.—On

Sunday, 27th August, I made the first inquiries in regard to the case at Andalusia, with Blayney and Reeside. I saw a neighbour and conversed with him (Blayney and R. in the carriage) about the soup and chicken.—We then went to Bristol to see Dr. Phillips, and on the way had a free conversation of the whole subject, and, I believe, I concealed nothing. On the 15th of September I went to New York, and Blayney went. On landing, we met the police clerk of Boston, and I think I told him the whole history of the soup. I further believe, I detailed in my letter to the mayor of Boston all the particulars I had. This was before Blayney's going for Mina. On the 17th of September I first saw Mr. Ross on the subject. Mr. Blayney left for Boston at the first summoning of the coroner's jury, on the 21st September. It was about the 9th September I wrote to Boston.

By the Court.—The custom is, the police officer investigates the truth of the facts told to the officer—if any be false, the officer is released from his pledge of secrecy.

By Mr. Rush.—The cases I know of are, where questions were asked by defendant's counsel, and objected to on ground of policy by the Commonwealth. The first publication was on the 16th of September, in a New York paper, and on the 17th in National Gazette. Mr. C.'s name was not mentioned. I think he was arrested on the 9th September, in Boston. I must have written about the 4th or 5th.—Nothing was said of the soup in the publication.

DR. MITCHELL, SWORN.

On the 22d September, 1831, I received the stomach of William Chapman, and opened it in the presence of Dr. Hopkinson and Mr. Clemson. The stomach was of a brownish red colour, and was covered with a viscid mucus, but contained no other matter. The mucus was removed with a bone spoon, and then the stomach exhibited darker spots near the upper orifice, and irregular patches in other places. The scraping separated the mucous lining in parts where it seemed to have been detached by thin plates of extravasated blood. The intestine was apparently sound.—No solid particles of arsenic were found in any part, either by the eye or the finger.

The mucus treated with water, and examined by the usual liquid tests, did not give decidedly characteristic precipitate. The sulphate of copper afforded a dirty green, the nitrate of silver a brownish yellow, the sulphuretted hydrogen caused, after the application of heat, a yellow deposit, which could not be got off from the filtre by mechanical means. The whole of it, therefore, was thrown into nitric acid, in which were also dissolved the stomach and intestine. That was treated so as to produce, if possible, arseniate of lime, and that was manipulated with charcoal and heat, to obtain the metal of arsenic by sublimation. In a glass tube sealed at one end appeared a shining black ring, and on the accidental fracture of the glass, a decided odour of arsenic was perceived. In two other tubes, containing less of the material, the same odour was perceived. As no steel coloured crust appeared, and as medico-legal authors generally condemn a dependence on the smell, and take no notice of a black ring, or ascribe it to charcoal, I considered the experiment as fruitless. The tubes were subsequently heated several times, to test the odour for different persons, and finally thrown on the table as useless. Mr. Clemson afterwards made some further examination of one of them, but I did not follow the process.

Since the trial of Mrs. Chapman, I have examined the subject of arsenic with a greater degree of attention. I put a grain of the white oxide of arsenic combined with potash, into a stomach and portion of intestine obtained from the Alms-house, and left it in two months, or more, perhaps. The stomach did not putrefy in that time, became much drier, and gave out an odour exactly like that of the stomach of Mr. C.; and this fact I tested by questioning others. Since the trial of Mrs. C. I have endeavoured to recover that arsenic by chemical process, and found that the liquid tests gave the same unsatisfactory appearances, but the met alwas reduced so as to form characteristic rings in eight very small tubes. I do not consider my analysis of Mr. C.'s stomach a perfect one—because it was my first attempt of the kind; for, although I lecture on medical chemistry, the professor of medical jurisprudence in the same school has charge of that particular deprtment. The process was not well calculated to detect minute portions of arsenic—although a very good one for a larger quantity. It was also unsatisfactory from the state of knowledge at that time respecting the nature of the black shining ring which I have since ascertained not to be formed of charcoal, and know of only two substances which will produce it, and both of them are poisonous, viz: suboxide of arsenic, and cinnabar,

or sulphuret of mercury. When neither of these is present in the tube, a shining black ring is never thrown up, as far as I can ascertain by experiment. It was also unsatisfactory because the crust of metallic arsenic is considered by the highest and nearly all authority, to be essential to the detection of arsenic. I now consider that among the worst tests, since it is imitated exactly by another substance, not known to do so at the first examination. Sublimed cinnabar, *to the eye*, imitates arsenic closely. Considering then the whole process a failure, all the sublimable matter in the tubes was dissipated by the trials for the smell. The analysis of the Alms-house stomach was made with more matured care, and by a different process. I subsequently endeavoured to learn the value of the arsenical odour as a test. With similar tubes, and at the same lamp, I endeavoured to produce that odour by means of those substances which, in that respect, are said to resemble arsenic; but was not able to produce that odour by any of them.

Mr. Clemson being absent during these experiments, on his return I went over them again, concealing from him the contents of the tubes. I presented them to him separately, and did not produce an odour which he took for arsenic in any case where that body was not present. I presented one containing arsenic, and he was not deceived in that tube. From the symptoms given—post mortem examinations and analysis, my opinion is, that Mr. C. died from the presence of arsenic in the stomach. This opinion is given on the combination of circumstances—the whole series—and not exclusively upon any part of it. I believe the symptom of “burning pain” *might* exist in cholera morbus, because it proceeds from inflammation. The stiffness of the body immediately after death is not a common appearance, and is a characteristic of death by arsenic. This is an opinion formed from several writers.

Mr. Rush. As I did not make notes, I do not certainly recollect where I found that opinion. It is I believe in Christison, Orfila, Jæger, &c. I did not form the opinion as to the death by arsenic until I heard the testimony in Mrs. Chapman’s case. I think the chemical proof is not quite conclusive, and could not *alone* settle this case. I think better of it than I did originally. The first test was sulph. copper—it threw down a dirty green, not such as arsenic would have produced in clear water—not characteristic of arsenic. The nit. silver did not act satisfactorily. Metallic arsenic was not obtained. The shining black ring and arsenical odour were produced. The arsenical odour would, in chemical or scientific purposes, suffice to establish its presence. I would not like to trust to that alone in judicial investigations. When the experiments were closed with Mr. C.’s stomach, I considered them as a failure, or not *demonstrative* of the existence of arsenic *at that time*. It is from my subsequent experiments I have come to a firmer opinion of its presence. There was no alkali used in the experiment with the sulphuretted hydrogen. The quantity of arsenic recovered may be very small. Christison, in a case of poison, obtained 1-20th part of a grain; but from how much he could not know. In abstract experiments—not from the body—Berzelius has, if I remember well, sublimed 1-180th part of a grain, and says he thinks 1-300th would form a visible crust. As to the tests, the quantity of it which they may detect in unadulterated solutions, in clear water, is *very* minute. There is no instance recorded of a less quantity than 30 grains killing a *full grown* individual. I gave a dog 60 grains—I believe since Mrs. C.’s trial, but am not sure. It did not kill him—he vomited. The dog vomits so easily, that he threw it up probably immediately. The duodenum is the intestine next the stomach. Authority is decidedly in favour of the fact, that other substances produce an odour so like that of arsenic, that it may be mistaken, and that it is not sufficient proof. Chemistry is a progressive and changing science.

Mr. McDowell. Christison is undoubtedly the best English authority on poisons. Orfila the best French.

Mr. Reed. There are 960 grains in two ounces. Many cases where no arsenic was found after death, in cases where it caused it, are recorded.

Mr. Ross. The symptoms, and other phenomena detailed, were, some of them, such as arsenic might produce—some such as it probably would produce—and others such as perhaps nothing else could. Having endeavoured to exclude all other testimony, I should on these alone have made up my mind as to his death. I cannot feel certain that I am not influenced by the other evidence in this case, but think that the train of symptoms, condition of the dead body, and chemical investigations, combined, afford strong and sufficient ground for the opinion given.

By the Court.—To my knowledge I have never been deceived by the odour of arsenic. I think there could have been no substance in the matter examined that

would have thrown out the smell of arsenic. From that examination and my subsequent ones, as a mineralogist and man of science, I have no doubt of the presence of the odour of arsenic, and, of course, of arsenic. As a chemist in ordinary investigations, I am warranted in relying on the odour as a test of the presence of arsenic. Berzelius, in his work 'On the Blow-pipe,' p. 122, says: "The odour of arsenic is so good a character that it may even be detected by it in the small portion of small commonly used to give a blue tinge to paper, by exposing the ashes of the paper to the reducing flame." Henry Rose gives a similar opinion; and Orfila, (Toxicol. tom. i. p. 368,) in speaking of plants, observes, "That the parts perish as the arsenic successively reaches them by absorption, which seems *perfectly well proved* by the alliaceous odour which is manifested when we burn the parts the farthest removed from those to which the deleterious substance has been applied." A ring without the odour would not satisfy me, and of the two, if I must judge by one, I should most depend on the odour, but only then for ordinary purposes. I consider the black shining ring as additional evidence; it was distinguished from the ring of cinnabar by the absence of the smell of sulphur. Alone, however, I could not confide in it, as it is a new point, on which there is no good authority. Writers have ascribed it to charcoal, but charcoal cannot produce it. Of the liquid tests sulphuretted hydrogen afforded a characteristic precipitate, which might have been sulphur, but was more probably a mixture of animal matter and a trace of arsenic. As part of the series, it is of some import. As a chemist, and for all ordinary purposes, I should not feel warranted in rejecting the train of chemical evidence in favour of the presence of arsenic, but cannot entirely divest myself of the influence which the weight of authority, and the importance of the consequences, naturally exert. Without the odour, even a crust would not have satisfied me. Confined to one single test, I would prefer the odour. The black lustrous ring was additional evidence; for as it did not give a sulphureous, but an arsenical smell, it could not be cinnabar. I should not feel justified in rejecting the train of chemical evidence.

By Mr. Rush.—I speak as a chemist in his ordinary pursuits.

The testimony for the Commonwealth being here closed, Mr. M'Dowell briefly opened the case for the defendant. The only evidence adduced was, the deposition of Dr. Bache, (which will be found at page 76.) and the verdict of acquittal in the case of Mrs. Chapman.

Messrs. Reed, M'Dowell, Rush, and Ross, addressed the Jury in the order in which they are named.

To show that a principal in the second degree may be convicted after the acquittal of a principal in the first degree, the prosecution cited *Foster's C. L.* 350. 349. 1 *East*, P. C. 351.—1 *Salkeld*, 334. Also, to show what constitutes a legal presence, 1 *Hale*, 437, 439, 534, 537. *Knapp's Trial.*

Judge Fox charged the Jury on Friday afternoon; after which they were placed in the custody of two constables, to be kept without meat, &c., until they were agreed upon their verdict. In somewhat less than three hours, (it being then about half past 9 o'clock in the evening,) the Jury returned into Court;—

VERDICT.—Guilty of murder in the first degree, on the first and second counts of the indictment, and not guilty on the third count.

The Court directed the sheriff to take the prisoner back for the night.

On Saturday morning, the Court having directed that he be brought up to receive sentence, Mr. M'Dowell requested the Court to allow the counsel time to file reasons in arrest of judgment, if they should find it advisable to do so; and mentioned the time of four days, as the customary allowance. The Court acceded.

¶ The following letter is appended to the report, as a matter of curiosity and interest in the history of the unfortunate man, whose fate has just been decided by a jury of the country. It was politely offered by a highly respectable gentleman of the city of Philadelphia, (not the Inspector,) and there is no doubt of its genuineness. It is said to have been mainly instrumental in procuring his release from the Penitentiary.

Philadelphia Penitentiary, April 9, 1831.

SIR,—As I do not understand the English language, I have requested one of my fellow prisoners to translate the following statement, in order that the Inspectors

may be informed of the circumstances which brought me to the United States, and occasioned my imprisonment here.

On the 6th day of July, 1829, I sailed with the expedition against Mexico, commanded by General Barradas, from the Havana. On the second of August we arrived, and effected a landing within sixty miles to the south of Tampico. On the fifth of August the Spanish army took possession of Tampico. About two weeks after we had taken possession of that city, I was sent out to a little town called Altamira, to watch the motions of the Mexican army, commanded by General Antonia Lopes Santa Ana, and whilst in this little town I was arrested as a spy from the Spanish army, and on suspicion of being a Cadet in the service of the King of Spain. I was sent prisoner immediately by the Mexicans, to Vera Cruz. In the mean time, General Barradas, and the army under his command, capitulated, and they were sent to New Orleans, to be sent home to the Island of Cuba. I was sent up to the city of Mexico, to be united with the other troops, but the army being sent from Tampico, I did not join them, but was sent to Vera Cruz, and came from there to New York to find a passage to the Island of Cuba, where my father lives, and where my home is. You will observe that I was taken as a spy, and that I was pardoned only on account of my youth. When I arrived at New York, having lost my documents and certificates, the Spanish Consul would not assist me, and being utterly destitute and in great distress, I came on to this city in search of a countryman of mine, who, could I have found him, would have relieved me. After I came here, a captain of a vessel bound to the Havana, told me he would give me a passage home, as soon as he could take in a cargo. In the mean time I was arrested in this city for stealing a common breast pin, a very common silver watch, and a musical box. These things were given to me by another person of my own age, and what ought to convince others that I did not steal them, is the fact, that I gave them to another boy as a gift. As, however, the witness swore that the articles were not given to me, and I being unable to prove it, and ignorant of the laws, the customs, and the language of this country, I was convicted, and received a sentence of eighteen months. They said in Court that the watch was worth twenty dollars, when the value of it was not more than two dollars.

Being sensible that the Americans are very favourable to the Spanish nation generally, and that the Inspectors are very humane men, I am induced to apply for a pardon in order that I may return home to my parents. The Inspectors will please to remember that I am very young, that I am far from my home, my parents, and my friends, that there are none here who have the ability and desire to assist me but them. I have been here now a year, and as it is my intention to leave the country immediately on my release, I trust the Inspectors will recommend me to the Governor.

I can get a passage home, I have no doubt, and if it is necessary, can work my passage.

I am your obedient humble servant,

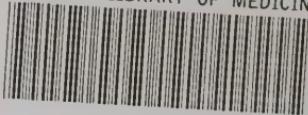
CELESTINO ALMENTERO.

Endorsed, THOMAS PHIPPS, Esq. Inspector.





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